Supreme Court, U.S.
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In The

Supreme Court of the United States

ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE,

Petitioner,

vs.

VIRGINIA M. CARNESI,

Respondent.

On Petition For Writ Of Certiorari To The Florida Supreme Court

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether a hierarchical entity of a religious denomination can be held vicariously liable for the unauthorized, unsanctioned, intentional tort of a non-agent, non-employee, volunteer, lay member of an individual congregation?

2. Whether the decision of the Florida Supreme Court represents an impermissible inquiry into and entanglement with the structure of a religious institution in violation of the protection afforded by the First Amendment and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution?

LIST OF PARTIES

In the proceedings below, Respondent named Chet Harrison, individually, and as the Chairman of the Pastor-Parish Relations Committee of the Ferry Pass United Methodist Church, the Ferry Pass United Methodist Church, the Pensacola District of the United Methodist Church, and the Alabama-West Florida Annual Conference of the United Methodist Church, as parties to the action. The parties may be referred to hereafter as "Carnesi," "Harrison," "the Church," "the District," and "the Conference" or "Petitioner."

CORPORATE DISCLOSURE STATEMENT

The Alabama-West Florida Annual Conference of the United Methodist Church is an ecclesiastical body operated exclusively for religious purposes. A resident bishop presides over the Annual Conference. The members of the Alabama-West Florida Annual Conference are comprised of lay and clergy members. The Annual Conference is not incorporated; however, property belonging to the Annual Conference is held by trustees who are incorporated as the Board of Trustees of the Alabama-West Florida Annual Conference of the United Methodist Church. The corporation is an Alabama corporation with its principal place of business in Andalusia, Alabama. Property belonging to the Ferry Pass United Methodist Church, Inc. is not owned or controlled by the Alabama-West Florida Annual Conference or its trustees. Personnel decisions of the Ferry Pass United Methodist Church, Inc. are not controlled or made by the Annual Conference or the Conference trustees.

TABLE OF CONTENTS

	Page
PETITION FOR WRIT OF CERTIORARI	1
OPINIONS BELOW	1
JURISDICTION	1
CONSTITUTIONAL PROVISIONS INVOLVED	2
STATEMENT OF PERTINENT FACTS, COURSE OF PROCEEDINGS, AND DISPOSITION BELOW	3
REASONS FOR GRANTING THE WRIT	7
I. THE FLORIDA SUPREME COURT HAS UNCONSTITUTIONALLY PERMITTED THE TRIAL COURT THE OPPORTUNITY TO IMPOSE VICARIOUS LIABILITY SIMPLY BECAUSE THE UNITED METHODIST CHURCH IS A RELIGIOUS ORGANIZATION.	7
II. THE DECISION OF THE FLORIDA SUPREME COURT REQUIRES AN IMPERMISSIBLE INQUIRY INTO AND ENTANGLEMENT WITH THE INTERNAL STRUCTURE OF A RELIGIOUS ORGANIZATION	10

TABLE OF AUTHORITIES

Page

CASES:

Aetna Insurance Co. v. Holmes, 52 So.2d 801 (Fla. 1910) 9

Burlington Industries, Inc. v. Ellerth, 118 S.Ct. 2257 (1998) 8

Cantwell v. Connecticut, 310 U.S. 296, 60 S.Ct. 900, 84 L.Ed. 1213 (1940) 8

Carnesi v. Ferry Pass United Methodist Church, 770 So.2d 1286 (Fla. 1st DCA 2000), *reh'g denied* (Fla. Sept. 11, 2002) 1

Carnesi v. Ferry Pass United Methodist Church, 826 So.2d 954 (Fla. 2002) 1

Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 113 S.Ct. 2217, 124 L.Ed.2d 472 (1993) 8, 10

Doe v. Evans, 814 So.2d 370 (Fla. 2002) 2, 5

Employment Div., Dept. of Human Resources of Oregon v. Smith, 494 U.S. 872, 110 S.Ct. 1595 (1990) 9

Faragher v. City of Boca Raton, 118 S.Ct. 2275 (1998) 8

Fowler v. Rhode Island, 345 U.S. 67, 73 S.Ct. 526, 97 L.Ed. 828 (1953) 10

Gebser v. Lago Vista Independent School Dist., 118 S.Ct. 1989 (1998) 8

Goldschmidt v. Holman, 571 So.2d 422 (Fla. 1990) 8

Lemon v. Kurtzman, 403 U.S. 602 (1971) 10

Malicki v. Doe, 814 So.2d 347 (Fla. 2002) 2, 5

TABLE OF AUTHORITIES – Continued

Page

McDaniel v. Paty, 435 U.S. 618, 98 S.Ct. 1322, 55 L.Ed.2d 593 (1978) 9

Meritor Sav. Bank, FSB v. Vinson, 106 S.Ct. 2399 (1986) 8

New York Times Co. v. Sullivan, 376 U.S. 254 (1964) 2

Robinson v. Abreu, 345 So.2d 404 (Fla. 2d DCA 1977) 9

Serbian Eastern Orthodox Diocese v. Milivojevich, 426 U.S. 696 (1976) 11, 12, 14

United States v. Ballard, 322 U.S. 78, 64 S.Ct. 882, 88 L.Ed. 1148 (1944) 10

Watson v. Jones, 80 U.S. 679 (1871) 11

CONSTITUTIONS:

U.S. Const. amend. I 2, 8, 9

U.S. Const. amend. XIV 2, 3, 8

STATUTES:

28 U.S.C. § 1257 2

PETITION FOR WRIT OF CERTIORARI

The Alabama-West Florida Annual Conference of the Florida United Methodist Church respectfully submits this Petition for a Writ of Certiorari to review the order of the Florida Supreme Court in this case.

OPINIONS BELOW

The order of the Circuit Court of Escambia County, Florida, First Judicial District is unreported. (App. at 9). The orders of the Florida First District Court of Appeal and the Florida Supreme Court are reported at *Carnesi v. Ferry Pass United Methodist Church,* 770 So.2d 1286 (Fla. 1st DCA 2000) (App. at 5) and *Carnesi v. Ferry Pass United Methodist Church,* 826 So.2d 954 (Fla. 2002), *reh'g denied* (Fla. Sept. 11, 2002) (App. at 1), respectively.

JURISDICTION

On November 19, 1999, the trial court (the Circuit Court of the First Judicial Circuit in Escambia County, Florida) granted motions for summary judgment filed on behalf of the Church, the Pensacola District, and the Alabama-West Florida Conference against the Respondent. (App at. 9). Respondent Carnesi's claim against Harrison remained.

Respondent Carnesi appealed to the Florida First District Court of Appeal which affirmed the decision of the trial court. *Carnesi v. Ferry Pass United Methodist Church,* 770 So.2d 1286 (Fla. 1st DCA 2000) (App. at 5). Carnesi then appealed to the Florida Supreme Court which,

relying on its decisions in *Doe v. Evans,* 814 So.2d 370 (Fla. 2002) and *Malicki v. Doe,* 814 So.2d 347 (Fla. 2002) quashed the decision of the First District Court of Appeal and remanded the case on June 20, 2002. (App. at 1). The Florida Supreme Court denied Petitioners' Motion for Rehearing on September 11, 2002. (App. at 11). The jurisdiction of this Court is invoked under 28 U.S.C. § 1257.

For the reasons set forth herein, the Florida Supreme Court's application of tort law in this case is state action because the Court was "acting under the color of law." *See New York Times Co. v. Sullivan,* 376 U.S. 254, 265 (1964) (finding that an application of both statutory and common law constitutes state action for purposes of constitutional violations).

CONSTITUTIONAL PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const. amend. I. (App. at 13).

Section one of the Fourteenth Amendment states:

> Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of

> the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. amend. XIV. (App. at 14).

STATEMENT OF PERTINENT FACTS, COURSE OF PROCEEDINGS, AND DISPOSITION BELOW

Respondent Virginia Carnesi filed a Complaint against her church, the Ferry Pass United Methodist Church, the Pensacola District of the United Methodist Church, the Alabama-West Florida Annual Conference of the United Methodist Church,[1] and Chet Harrison seeking civil redress for alleged sexual harassment inflicted upon her by Harrison. The complaint included counts alleging hostile work environment, sexual harassment, *quid pro quo* sexual harassment, assault, and false imprisonment. (App. at 128-143).

[1] Ferry Pass is a part of the geographical area known as the Pensacola District of the United Methodist Church. The Pensacola District is a part of the Alabama-West Florida Annual Conference of the United Methodist Church. (App. at 16). The Conference is presided over by a bishop and the bishop appoints a district superintendent to assist the pastors and congregations in the Pensacola District. The Ferry Pass United Methodist Church is a separate and distinct entity from the District and the Conference. (App. at 16). Regarding the everyday affairs of Ferry Pass, as with other churches in the District and the Conference, the Conference has no authority or control to direct who it hires apart from appointed clergy. (App. at 16-17).

In her complaint, Carnesi alleges she was employed by the Conference. However, the evidence of record is undisputed that she was employed only by the local church (Ferry Pass), where she served as the secretary and bookkeeper for the local church. The evidence is undisputed that the Conference does not employ personnel in individual local congregations. The evidence is undisputed that the Conference did not employ Carnesi or Harrison for the local church.[2]

During the time Carnesi was employed by the Church, Harrison was a volunteer lay member of the Ferry Pass Church. In his capacity as a volunteer, Harrison served as the Chairperson of the Pastor Parish Relations Committee. Carnesi alleges Harrison sexually harassed her by hugging her, touching her, and kissing her. (App. at 128-143).

In her complaint, Carnesi alleged the Conference "knew or should have known" of Harrison's conduct. (App. at 133). Carnesi also alleged Harrison was an agent of the Conference or "was acting with actual and/or apparent authority" of the Conference. (App. at 138, 140). There is no evidence to support this allegation. The only evidence of record establishes the fact that the Conference had no supervisory duties, responsibilities or oversight regarding

[2] The evidence of record is undisputed that Harrison served in the role as Chairman of the Pastor Parish Relations Committee (also known as Staff Parish Relations Committee) as a volunteer and lay member of the Ferry Pass United Methodist Church, and not as an employee of Ferry Pass. (App. at 17).

Harrison whatsoever.[3] There is no evidence the Conference approved or, in fact, even had the ability to approve or sanction Harrison's conduct. The only record evidence regarding agency is contained in the uncontradicted Affidavit of William Wesley Morris, Bishop of the Alabama-West Florida Annual Conference of the United Methodist Church. Regarding the relationship between the Conference and the local churches, Bishop Morris stated:

> The Conference does not have any managerial power or control over member churches such as Ferry Pass. Rather, each member church is responsible for the hiring, firing, and supervision of its staff and employees.

(App. at 16). Regarding the relationship between the Conference and Carnesi, Bishop Morris stated:

> Each member church is financially and managerially independent from the District and the Conference. Regarding the payment of wages to employees and staff, each member church is autonomous. As specifically related to this case, plaintiff, Virginia Carnesi, was not an employee of the Conference. Rather, she was an employee of Ferry Pass. She was never paid compensation for her work by the Conference. She was paid by Ferry Pass, which derived its revenue for

[3] The uncontradicted Affidavit of William Wesley Morris, Bishop of the Alabama-West Florida Annual Conference of the United Methodist Church, clearly establishes three critical facts that make *Evans* and *Malicki* inapplicable as to the Conference: (1) Defendant Harrison was a *volunteer, not an employee* of Ferry Pass United Methodist Church. (App. at 17); 2) *neither* plaintiff nor defendant Harrison were *employed* by *the Conference* (App. at 17); and 3) Defendant Harrison did not *ever* act on behalf of the Conference in any capacity (App. at 17).

> payment of employees through the contributions of its individual members.

(App. at 17). Regarding the relationship between the Conference and Harrison, Bishop Morris stated:

> Chester Harrison was not an employee or agent of the Conference. During the plaintiff's employment with Ferry Pass, he served as chairman [sic] of the Pastor Parish Relations Committee, which is also known as the Staff Parish Relations Committee. Mr. Harrison was appointed to the position of chairman of this committee from its membership. This position was strictly voluntary and he was not employed by Ferry Pass. The Conference has no authority to determine his membership in this committee or his chairing of it. Such authority or control rested only with the membership of the committee. *As chairman, Mr. Harrison did not act on behalf of the Conference in any capacity. He was never an employee or agent of the Conference.*

(App. at 17). The complaint alleges the Conference is vicariously liable for Harrison's acts based solely on his status as a volunteer chairman in the Pastor's Parish Relations Committee. (App. at 128-143).[4] This is the

[4] The Pastor Parish Relations Committee is a body of members comprised of and elected by the local church without the approval or consent of the Conference, to conduct the day-to-day affairs of the local church. The Conference cannot elect the members of the Pastor Parish Relations Committee nor does it direct who should serve on the Pastor Parish Relations Committee. There is no direct oversight, control, supervision, or employment of any of the individuals on the Pastor Parish Relations Committee by the Conference. (App. at 42-48).

operable allegation, albeit an allegation not supported by the evidence, which prompts this Petition.

The Conference moved for and was granted a dismissal by the trial court. (App. at 9). The trial court's dismissal was affirmed by the Florida Court of Appeal. (App. at 5). The Supreme Court then reversed. (App. at 1).

The only evidence in the record with respect to any agency between the Conference and Harrison is the uncontradicted Affidavit of Bishop Morris which establishes that Harrison was not the agent of the Conference. Therefore, in reversing, the Florida Supreme Court has permitted an action against a religious denomination based solely on a theory of vicarious liability for unauthorized actions of a lay volunteer member of a local church.

Petitioner sought discretionary reconsideration of the Florida Supreme Court's decision dated June 20, 2002, which was denied without opinion by Order dated September 11, 2002. (App. at 11). Petitioner has exhausted all avenues for relief in the court below.

REASONS FOR GRANTING THE WRIT

I. THE FLORIDA SUPREME COURT HAS UNCONSTITUTIONALLY PERMITTED THE TRIAL COURT THE OPPORTUNITY TO IMPOSE VICARIOUS LIABILITY SIMPLY BECAUSE THE UNITED METHODIST CHURCH IS A RELIGIOUS ORGANIZATION

There was no employment, oversight, direction, or control over Harrison, or consent by the Conference to his actions. The Florida Supreme Court's only basis to impose

liability on the Conference was Harrison's membership in the congregation. In other words, the Florida Supreme Court has permitted the opportunity to impose liability on the Alabama-West Florida Annual Conference of the United Methodist Church solely due to the fact that Harrison is a member of a United Methodist congregation. The Free Exercise Clause of the First Amendment, applicable to the States via the Fourteenth Amendment, *see Cantwell v. Connecticut,* 310 U.S. 296, 303, 60 S.Ct. 900, 84 L.Ed. 1213 (1940), provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . ." U.S. Const. amend. I; *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah,* 508 U.S. 520, 532, 113 S.Ct. 2217, 124 L.Ed.2d 472 (1993).

There is no secular parallel to even a consideration of liability as contemplated by the Florida Supreme Court in this case. It is inconceivable that a volunteer would be deemed an agent of a secular entity where there had been no express or implied consent to the establishment of an agency relationship. Likewise, it is inconceivable that a secular entity would be held vicariously liable for the acts of a volunteer whom they did not direct, control, or in some way oversee. Under Florida law and the holdings in this Court, an agency relationship cannot be established without the following criteria: (1) there must be an injury caused by the negligence or will of the servant; (2) there must be a master-servant relationship; and (3) the servant must have been acting within the scope of his or her employment. *See* Restatement (Second) of Agency § 219 (1957); *Faragher v. City of Boca Raton,* 118 S.Ct. 2275 (1998); *Burlington Industries, Inc. v. Ellerth*, 118 S.Ct. 2257 (1998); *Gebser v. Lago Vista Independent School Dist.*, 118 S.Ct. 1989 (1998); *Meritor Sav. Bank, FSB v. Vinson,* 106 S.Ct. 2399 (1986); *Goldschmidt v.*

Holman, 571 So.2d 422 (Fla. 1990); *Aetna Insurance Co. v. Holmes,* 52 So.2d 801 (Fla. 1910); and *Robinson v. Abreu,* 345 So.2d 404 (Fla. 2d DCA 1977). For acts committed by a volunteer, as in this case, the organization must manifest consent before vicarious liability can be established. Restatement (Second) of Agency § 225 (1958).

The Florida Supreme Court has violated this rule by permitting the opportunity for the imposition of vicarious liability on a religious organization when it will not impose vicarious liability on a secular organization under similar circumstances. Imposing vicarious liability on a denomination for the actions of a lay volunteer based solely on the volunteer's religious affiliation with the denomination's faith is clearly in derogation of the protections of the First Amendment.

The Florida Supreme Court's decision creates a new standard of liability especially punitive to religious organizations. The court opens the floodgates of liability for all churches in the state by permitting vicarious liability for the intentional acts of all members with absolutely no basis in agency law. This sweeping liability exposure threatens the existence not only of the United Methodist Church, but of all religious organizations in the state of Florida. As a result, the decision below is a threat to freedom of religion itself.

The Florida Supreme Court's decision seeks to permit the Conference, a religious entity, to be held to a higher standard than a similarly situated secular entity. Thus, the Florida Supreme Court unconstitutionally seeks to "impose special disabilities on the basis of religious views or religious status" of the Conference. *See Employment Div., Dept. of Human Resources of Oregon v. Smith,* 494 U.S. 872 at 877, 110 S.Ct. 1595 (1990) (citing *McDaniel v. Paty,* 435 U.S. 618,

98 S.Ct. 1322, 55 L.Ed.2d 593 (1978); *United States v. Ballard,* 322 U.S. 78, 86-88, 64 S.Ct. 882, 88 L.Ed. 1148 (1944); *Fowler v. Rhode Island,* 345 U.S. 67, 69, 73 S.Ct. 526, 97 L.Ed. 828 (1953)). The Free Exercise Clause prohibits such a result and "protect[s] religious observers against unequal treatment." *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah,* 508 U.S. 520 at 542, 113 S.Ct. 2217 (1993) (quoting *Hobbie v. Unemployment Appeals Comm'n of Fla.,* 480 U.S. 136, 148, 107 S.Ct. 1046, 94 L.Ed.2d 190 (1987) (Stevens, J., concurring in judgment)). The rights of the Conference can only be protected if this Court grants this Petition for Writ of Certiorari.

II. THE DECISION OF THE FLORIDA SUPREME COURT REQUIRES AN IMPERMISSIBLE INQUIRY INTO AND ENTANGLEMENT WITH THE INTERNAL STRUCTURE OF A RELIGIOUS ORGANIZATION

This Court, in *Lemon v. Kurtzman,* 403 U.S. 602, 612-613 (1971), developed a three-prong test when evaluating the constitutionality of state action which can or will affect religion. Under the *Lemon* test, a state action must have a secular purpose; not have the primary effect of advancing or inhibiting religion; and, not foster excessive entanglement between church and state. *Id.* at 612.

Numerous cases have held it is constitutionally prohibited, due to the potential for excessive entanglement between the church and state, to subject a religious organization to the jurisdiction of a court in a matter concerning the interpretation of church laws, practices or policies. The principles limiting the role of civil courts in the resolution of religious controversies that incidentally

affect civil rights were initially set forth in *Watson v. Jones,* 80 U.S. 679 (1871). There, this Court held:

> [T]he rule of action which should govern the civil courts . . . is, that whenever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decisions as final, and as binding on them in their application to the case before them.

Id. at 727.

In the case of *Serbian Eastern Orthodox Diocese v. Milivojevich,* 426 U.S. 696 (1976), this Court stated:

> [I]t is easy to see that if the civil courts are to inquire into all these matters, the whole subject of the doctrinal theology, the usages and customs, the written laws, and the fundamental organization of every religious denomination may, and must, be examined into with minuteness and with care, for they would become, in almost every case, the criteria by which the validity of the ecclesiastical decree would be determined in the civil court. This principle would deprive these bodies of the right of construing their own church laws, would open the way to all the evils which we have depicted as attendant upon the doctrine of Lord Elden, and would, in effect, transfer to the civil courts where property rights were concerned the decision of all ecclesiastical questions.

Id. at 715. In *Milivojevich,* the church removed the respondent as a bishop of the church. *Id.* at 696. The respondent brought an action to declare that the actions of the church were procedurally and substantively defective under petitioner's internal regulations. *Id.* The Illinois

Supreme Court held the respondent's removal and defrocking was arbitrary and had to be set aside because the proceedings were not conducted according to the church's constitution. *Id.* This Court reversed the Illinois Supreme Court holding that its probe into the allocation of power within the church in order to decide religious law violated the First Amendment to the United States Constitution. *Id.* This Court further held that a court must accept ecclesiastical decisions of church tribunals as binding upon them. *Id.* at 724. The court also stated:

> We will not delve into the various church constitutional provisions relevant to this conclusion, for that would repeat the error of the Illinois Supreme Court. It suffices to note that the reorganization of the diocese involves a matter of internal church government, an issue at the core of ecclesiastical affairs. . . .

Id. Further, this Court stated:

> In short, the First and Fourteenth Amendments permit hierarchical religious organizations to establish their own rules and regulations for internal discipline and government, and to create tribunals for adjudicating disputes over these matters.

Id. at 724.

The Book of Discipline of the United Methodist Church contains the rules and guidelines for those of the United Methodist faith. *The Book of Discipline* recognizes the local congregation, here the Ferry Pass United Methodist Church, as a distinct and independent entity with its own

managerial and employment policies independent of the Conference.[5]

It is not the Conference's responsibility, nor does the Conference have the authority, to exercise day-to-day control over the Church. Instead, the Conference's responsibility is to provide nominal advice and support, in addition to appointing ordained clergy to congregations. *Holding the Conference responsible for Harrison's alleged intentional torts under a theory of vicarious liability would require the finder of fact to examine the fundamental principles and policies inherent in the hierarchy of the United Methodist Church.*

Furthermore, permitting the Conference to be held vicariously liable for the actions of a volunteer lay member of a local congregation would have a chilling effect upon

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[5] *See The Book of Discipline of The United Methodist Church* (App. at 30-127). Part 1 of the Constitution, in the Preamble, states that the church is a community of all true believers under the Lordship of Christ, and whose purpose is to provide for the maintenance of worship, the edification of believers and their redemption of the world. Sections 201-204 regard the duties and responsibilities of the local church. Section 205 regard a pastoral charge. Section 245 sets out its primary tasks and responsibilities. Section 246 requires provision for certain units within the local church. Chapter 3, The Superintendency, includes their tasks, guidelines for superintendency, selection and assignment, limitations on years of service, and specific responsibilities to oversee the programs of the church within the bounds of the district. Section 426, *et seq.*, found in Section VII, Expressions of Superintendency, regards the office of Bishop, Council of Bishops (such as the head of the Alabama-West Florida Annual Conference of the United Methodist Church). Part 3 of Section 427 states the Council of Bishops is charged with the oversight of the spiritual and temporal affairs of the whole church to be executed in regularized consultation and cooperation with other councils and service agencies of the church.

the United Methodist Church's internal practices and that of its subordinate entities, including the Pensacola District of the United Methodist Church, and the Ferry Pass United Methodist Church. Imposing vicarious liability on the denomination for the actions of volunteer members would alter each entity's internal practices and policies which had previously been properly determined in accordance with religious considerations. The Conference potentially would be required to alter the hierarchical structure and impose complete control over the membership, the member Churches and the Districts, thereby removing the independence and autonomy – indeed the very essence – of the hierarchical structure of United Methodist churches which currently exist.

The Conference is not throwing up its constitutional rights as a shield to protect and permit improper conduct. The Conference is merely seeking the constitutional protections which permit religious institutions to organize themselves in ways which are calculated to promote and disseminate matters of faith.

As this Court noted in *Serbian Eastern Orthodox Diocese v. Milivojevich,* 426 U.S. 696, 708-709, determining the authority of a religious body under religious law:

> . . . necessitates the interpretation of ambiguous religious law in usage. To permit civil courts to probe deeply enough into the allocation of power within a hierarchical church so as to decide . . . religious law [governing church polity] . . . would violate the First Amendment in much the same manner as civil determination of a religious doctrine.

Accordingly, to have the trier of fact attempt to discern the employment relationships between the various parties to this appeal, much less between Harrison and the Conference, would require an improper evaluation of Church policies, practices and procedures, resulting in an excessive entanglement between church and state. The rights of the Conference can only be protected if this Court grants this Petition.

Respectfully submitted,

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826 So.2d 954

Supreme Court of Florida.

Virginia M. CARNESI, Petitioner,

v.

FERRY PASS UNITED METHODIST CHURCH, Pensacola District of the Alabama West Florida United Methodist Conference, Alabama West Florida United Methodist Conference, and Chet Harrison, individually and as Past Parish Relations Committee Chairman, Respondents.

No. SC00-2579.

June 20, 2002.
Rehearing Denied Sept. 11, 2002.

Troy A. Rafferty and Timothy M. O'Brien of Levin, Papantonio, Thomas, Mitchell, Echsner & Proctor, P.A., Pensacola, FL, for Petitioner.

William R. Mitchell and *Stephen F. Bolton* of Hook, Bolton, Mitchell, Kirkland & McGhee, on behalf of Ferry Pass United Methodist Church; Eric D. Stevenson and *Michael W. Kehoe* of Fuller, Johnson & Farrell, P.A., Pensacola, FL, on behalf of Pensacola District of the Alabama West Florida United Methodist Conference; and *Kathy J. Maus*, *Kim E. Wells*, and *Michael G. Haire, Jr.*, of Butler Burnette Pappas LLP, Tallahassee, FL, on behalf of Alabama West Florida United Methodist Conference, Respondents.

Peter A. Miller of Conroy, Simberg & Ganon, Coral Gables, FL; and *Robert S. Glazier*, Miami, FL, for Church Mutual Insurance Company and Miami Shores Presbyterian Church, Amici Curiae.

PER CURIAM.

We have for review *Carnesi v. Ferry Pass United Methodist Church,* 770 So.2d 1286 (Fla. 1st DCA 2000), which cited as controlling authority *Doe v. Evans,* 718 So.2d 286 (Fla. 4th DCA 1998), *quashed,* 814 So.2d 370 (Fla.2002), which was then pending review in this Court. We have jurisdiction. *See* art. V, § 3(b)(3), Fla. Const.; *Jollie v. State,* 405 So.2d 418 (Fla.1981). On March 26, 2002, we entered an order directing the parties to show cause why the decision should not be quashed in light of our decisions in *Doe v. Evans,* 814 So.2d 370 (Fla.2002), and *Malicki v. Doe,* 814 So.2d 347 (Fla.2002).

Upon review of the responses to the March 26, 2002, order, the Court has determined that it should remand the case in light of our opinions in *Evans* and *Malicki.* Accordingly, the First District's decision in this case is quashed and this matter is remanded for proceedings consistent with our opinions in *Evans* and *Malicki.*

It is so ordered.

SHAW, ANSTEAD, PARIENTE, LEWIS and QUINCE, JJ., concur.

WELLS, C.J., dissents with an opinion.

HARDING, J., dissents with an opinion.

WELLS, C.J., dissenting.

I do not agree that this case should be quashed and remanded in light of *Doe v. Evans,* 814 So.2d 370 (Fla.2002), and *Malicki v. Doe,* 814 So.2d 347 (Fla.2002). I recognize that the district court cites to *Evans* in its

opinion, and the majority of this Court quashed the Fourth District Court of Appeal's decision in *Evans*.

However, the issues in the present case involve the authority which the church conferred upon volunteers, which the district court's majority correctly concluded "will require a secular court to review and interpret church law, policies and practices to determine whether an agency relationship existed." This is indisputably correct, and I do not believe the decision in *Malicki* or *Evans* rendered it incorrect.

I would discharge jurisdiction. In this way a correct decision can remain in effect.

Moreover, I believe the majority's decision is confusing when it says, "[t]his matter is remanded for proceedings consistent with our opinions in *Evans* and *Malicki*." I do not understand what either the district court or the trial court is to do. I do not know whether this is intended to be a signal as to what to do about the agency issue or whether the lower courts are still free to find that they should not delve into church law and policy on the agency issue. I do not know on what basis the agency issue is to be decided. There was no agency issue in respect to the perpetrator of the sexual assault in *Malicki* or the person allegedly romantically involved in *Evans*.

HARDING, J., dissenting.

Based on the reasons set forth in *Malicki v. Doe,* 814 So.2d 347, 367-70 (Fla.2002) (Harding, J., dissenting), and *Doe v. Evans,* 814 So.2d 370, 381- 83 (Fla.2002) (Harding, J., dissenting), I would approve the decision of the court below. Also, I join in Chief Justice Wells' concerns that the

majority opinion creates considerable confusion and offers little guidance to the trial court on remand.

770 So.2d 1286

District Court of Appeal of Florida,
First District.

Virginia M. CARNESI, Appellant,

v.

FERRY PASS UNITED METHODIST CHURCH, Pensacola District United Methodist Conference, Alabama West Florida United Methodist Conference, and Chet Harrison, individually and as Pastor Parish Relations Committee Chairman,
Appellees.

No. 1D99-4333.

Nov. 16, 2000.

Troy A. Rafferty of Levin, Middlebrooks, Thomas, Mitchell, Green, Echsner, Proctor & Papantonio, P.A., Pensacola, for Appellant.

Michael W. Kehoe of Fuller, Johnson & Farrell, P.A., Pensacola, for Appellee/Pensacola District of the United Methodist Church Conference.

William R. Mitchell of Moore, Hill, Westmoreland, Hook & Bolton, P.A., Pensacola, for Appellee/Ferry Pass United Methodist Church.

Michael Shelley of Butler, Burnette, Pappas, Tallahassee, for Appellee/Alabama West Florida United Methodist Conference.

DAVIS, J.

Appellant, Virginia M. Carnesi, appeals the trial court's order granting summary judgment to appellees, Ferry Pass United Methodist Church, Pensacola District

United Methodist Conference, and the Alabama West Florida United Methodist Conference ("church defendants"). We affirm.

Carnesi filed a complaint against the church defendants and *church volunteer* Chet Harrison, who served as the chairman of the pastor parish relations committee (PPRC), a committee staffed by volunteers which hired Carnesi as a church secretary and bookkeeper and supervised her work. Carnesi alleges that Harrison sexually harassed her; she raises claims of a hostile work environment and quid pro quo sexual harassment pursuant to section 760.01, Florida Statutes (1995), and assault, battery, and false imprisonment. The trial court granted the church defendants' motions for summary judgment on the authority of *Doe v. Evans,* 718 So.2d 286 (Fla. 4th DCA 1998), *rev. granted,* 735 So.2d 1284 (Fla.1999). *Evans* involves claims of breach of fiduciary duty, negligent hiring, supervision, retention, and outrage based upon a pastor's sexual relationship with a parishioner. The *Evans* court concluded that all of the claims were barred by the excessive entanglement doctrine of the First Amendment because the determination of Doe's claims would involve excessive governmental entanglement with religion.

Similarly, in the instant case, a determination of Carnesi's claims – which are based upon the actions of a volunteer rather than another employee – will require a secular court to review and interpret church law, policies, and practices to determine whether an agency relationship existed between Harrison, the PPRC, and the church defendants, and whether the church defendants can be held liable for Harrison's actions. We believe that, as in *Evans,* this examination would violate the First Amendment's excessive entanglement doctrine. We therefore affirm.

AFFIRMED.

BROWNING, J., CONCURS. WOLF, J., DISSENTS WITH OPINION.

WOLF, J., dissenting.

Appellant worked as a bookkeeper for the church. There is no indication that her duties involved religious matters related to the church. Appellant's alleged harasser served as chairman of a committee appointed by the church to oversee her hiring as well as raises and promotions. It is unclear from the record how many employees the committee supervised or whether they had any responsibilities related to supervision of the pastor or any other employee exercising religious duties.

The alleged wrongdoing of the church involved allowing the harasser to remain in a supervisory capacity over appellant even after it was made aware of his misconduct. The case of *Doe v. Evans,* 718 So.2d 286 (Fla. 4th DCA 1998), *rev. granted,* 735 So.2d 1284 (Fla.1999), relied on by the majority, involved a claim that a church had negligently supervised and retained a religious leader of the church. While questions involving the supervision or retention of clergy arguably would raise issues about excessive entanglement with religious decisions of the church, *see Doe v. Malicki,* 771 So.2d 545, 548-50 (Fla. 3d DCA 2000) (Schwartz, J., dissenting), the same concerns are not present in cases involving questions about the church's supervision of lay persons making employment decisions over lay employees. There is no indication in this case that any decisions made concerning appellant's employment relationship were made on the basis of religious considerations.

In *Drevlow v. Lutheran Church, Missouri Synod,* 991 F.2d 468 (8th Cir. 1993), the court held that while the First Amendment barred adjudication of a minister's claim that the church had violated its own bylaws, the First Amendment did not necessarily bar consideration by the court of the minister's remaining claims which had been based on the church having placed false information in the minister's personnel file and then circulating that file to other churches interested in hiring pastors. Although the court noted that "[p]ersonnel decisions are protected from civil court interference where review by civil courts would require the courts to interpret and apply religious doctrine or ecclesiastical law," the court went on to state that "[t]he First Amendment does not shield employment decisions made by religious organizations from civil court review . . . where the employment decisions do not implicate religious beliefs, procedures, or law." *Id.* at 471. The court indicated that, because it was reviewing an order on a motion to dismiss, it was unclear whether "the evidence offered at trial will definitely involve the district court in an impermissible inquiry into the Synod's bylaws or religious beliefs." *Id.*

The instant case is in a similar litigation posture. In the absence of evidence that the employment decisions made here were motivated by religious considerations, the case should go forward. Sound public policy requires that religious organizations not be given blanket immunity for employment decisions relating to lay employees. I, therefore, dissent.

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

VIRGINIA M. CARNESI,

Plaintiff,

vs.

FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT OF THE UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and CHESTER HARRISON, Individually and as Pastor Parish Relations Committee Chairman,

CASE NO.: 97-0807
DIVISION: "A"

Defendants.
_____/

FINAL JUDGMENT FOR DEFENDANTS FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT OF THE UNITED METHODIST CONFERENCE, AND ALABAMA-WEST FLORIDA UNITED METHODIST CONFERENCE

THIS CAUSE having come before the Court pursuant to the motions for summary judgment filed on behalf of Ferry Pass United Methodist Church, Pensacola District of the United Methodist Conference, and the Alabama-West Florida United Methodist Conference, and the Court having entered an order on March 26, 1999, and later on October 29, 1999, granting said motions and dismissing said Defendants from this case, it is hereby

ADJUDGED that Plaintiff Carnesi take nothing by this action against Defendants Ferry Pass United Methodist Church, Pensacola District of the United Methodist Conference, and the Alabama-West Florida United Methodist Conference, and that these Defendants go hence without day, with the Court reserving jurisdiction to tax attorneys' fees and costs upon proper motion. This judgment does not effect the claim of Plaintiff, Virginia Carnesi, against Defendant, Chester Harrison.

DONE AND ORDERED this 19th day of November, 1999, in Pensacola, Escambia County, Florida.

/s/ Nickolas P. Geeker
Honorable Nickolas P. Geeker

Copies Furnished:

Troy A. Rafferty
William H. F. Wiltshire
Kathy J. Maus
Michael W. Kehoe
Stephen F. Bolton

Supreme Court of Florida

WEDNESDAY, SEPTEMBER 11, 2002

CASE NO.: SC00-2579
Lower Tribunal No.: 1D99-4333

VIRGINIA M. CARNESI vs. FERRY PASS UNITED METHODIST CHURCH, ET AL.

Petitioner(s) Respondent(s)

The Respondent, Alabama West Florida United Methodist Conference's Motion for Rehearing and/or Clarification filed, July 3, 2002, and the Respondent, the Pensacola District of the Alabama West Florida Conference of the United Methodist Church's Motion for Rehearing or Clarification, filed July 8, 2002, are hereby denied.

ANSTEAD, C.J., and SHAW, PARIENTE, LEWIS and QUINCE, JJ., concur. WELLS, J., and HARDING, Senior Justice, dissent.

A True Copy
Test:

/s/ Thomas D. Hall
Thomas D. Hall [SEAL]
Clerk, Supreme Court

bh
Served:
bh
HON. NICKOLAS P. GEEKER JUDGE
HON. JON S. WHEELER, CLERK
TROY A. RAFFERTY
HON. ERNIE LEE MAGAHA, CLERK
KATHY J. MAUS
W. H. F. WILTSHIRE
J. PATRICK FITZGERALD

TIMOTHY M. O'BRIEN
ERIC DUANE STEVENSON
KIM E. WELLS
WILLIAM R. MITCHELL
STEPHEN F. BOLTON
MICHAEL G. HAIRE
MICHAEL W. KEHOE
JAMES F. GILBRIDE
ROBERT S. GLAZIER
ADAM D. HOROWITZ
PETER A. MILLER

UNITED STATES CODE ANNOTATED
CONSTITUTION OF THE UNITED STATES
AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

UNITED STATES CODE ANNOTATED
CONSTITUTION OF THE UNITED STATES
AMENDMENT XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

IN THE CIRCUIT COURT OF THE
FIRST JUDICIAL CIRCUIT IN AND FOR
ESCAMBIA COUNTY, FLORIDA

VIRGINIA M. CARNESI,

Plaintiff,

vs.

CASE NO.
97-0807-CA-01

FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT OF THE ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE and CHESTER HARRISON, individually and as Pastor Parish Relations Committee Chairman,

Defendants

_____/

AFFIDAVIT OF BISHOP WILLIAM WESLEY MORRIS

STATE OF ALABAMA
COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared BISHOP WILLIAM WESLEY MORRIS, who is ( ) personally known to me or ( ) who has produced ___ as identification, and who after being duly sworn, deposes and states:

1. My name is William Wesley Morris. I hold the title of Bishop in the United Methodist Church and am the

Presiding bishop of the Alabama West Florida Conference of the United Methodist Church.

2. Attached to my affidavit are excerpts from *The Book of Discipline of the United Methodist Church.* I attest to the authenticity of the attached excerpts and am familiar with them.

3. The Alabama West Florida Conference is an affiliation of nine (9) Districts in Alabama and West Florida representing distinct geographical regions. Each district has a District Superintendent. Within each district are member churches. Ferry Pass United Methodist Church is a member of of [sic] the Pensacola District. The Conference, the Pensacola District, and Ferry Pass United Methodist Church, are separate entities. The Conference does not have any managerial power or control over member churches such as Ferry Pass. Rather, each member church is responsible for the hiring, firing, and supervision of its staff and employees.

4. The only personnel decision concerning a member church over which the Conference has involvement is the appointment of a pastor for each member church. In this capacity, the District Superintendent is involved in the evaluation and appointment of each church's pastor along with the Staff-Parish Relations Committee of each church. The ultimate decision over the appointment of the pastor rests with the Presiding Bishop of the Conference. After the appointment is made, the Conference has no involvement in the management of the member church. Regarding the everyday affairs of each member church, the Conference has no authority or control. Such everyday affairs, which include personnel matters, like hiring, firing, and discipline of all employees and staff, and the

appointment of members to committees and chairs of committees, are solely within the province of each church.

5. Each member church is financially and managerially independent from the District and the Conference. Regarding the payment of wages to employees and staff, each member church is autonomous.

6. as specifically related to this case, the plaintiff, Virginia Carnesi, was not an employee of the Conference. Rather, she was an employee of Ferry Pass. She was never paid compensation for her work by the Conference. She was paid by Ferry Pass, which derived its revenue for payment of employees through the contributions of its individual members.

7. As specifically related to this case, Chester Harrison was not an employee or agent of the Conference. During the plaintiff's employment with Ferry pass, he served as a chairman of the Pastor parish Relations Committee, which is also known as the Staff Parish Relations Committee. Mr. Harrison was appointed to the position of chairman of this committee from its membership. This position was strictly voluntary and he was not employed by Ferry Pass. The Conference had no authority to determine his membership in this committee or his chairing of it. Such authority or control rested only with the membership of the committee. As chairman, Mr. Harrison did not act on behalf of the Conference in any capacity. He was never an employee or agent of the Conference.

FURTHER AFFIANT SAYETH NAUGHT.

/s/ William Wesley Morris
BISHOP WILLIAM
WESLEY MORRIS

STATE OF ALABAMA
COUNTY OF Montgomery

SWORN TO and SUBSCRIBED before me on this 23rd day of February, 1999, by BISHOP WILLIAM WESLEY MORRIS, who is personally known to me or produced a valid driver's license as proof of identification.

/s/ Laura Hughes
NOTARY PUBLIC
Laura Hughes

My Commission Expires: 10/07/2002
[SEAL]

App. 19

EXCERPTS FROM THE BOOK OF DISCIPLINE OF THE UNITED METHODIST CHURCH

1996

The United Methodist Publishing House
Nashville, Tennessee

Part I

THE CONSTITUTION

PREAMBLE

The church is a community of all true believers under the Lordship of Christ. It is the redeemed and redeeming fellowship in which the Word of God is preached by persons divinely called, and the sacraments are duly administered according to Christ's own appointment. Under the discipline of the Holy Spirit the church seeks to provide for the maintenance of worship, the edification of believers, and the redemption of the world.

The church of Jesus Christ exists in and for the world, and its very dividedness is a hindrance to its mission in that world.

The prayers and intentions of The Methodist Church and The Evangelical United Brethren Church have been and are for obedience to the will of our Lord that his people be one, in humility for the present brokenness of

the Church and in gratitude that opportunities for reunion have been given. In harmony with these prayers and intentions, these churches do now propose to unite, in the confident assurance that this act is an expression of the oneness of Christ's people.

Conversations concerning union between the two churches and their constituent members have taken place over a long period of years, and the churches have a long and impressive history of fellowship and cooperation.

Therefore, we, the Commissions on Church Union of The Methodist Church, and of The Evangelical United Brethren Church, holding that these churches are essentially one in origin, in belief, in spirit, and in purpose, and desiring that this essential unity be made actual in organization and administration in the United States of America and throughout the world, do hereby propose and transmit to our respective General Conferences the following Plan of Union and recommend to the two churches its adoption by the processes which they respectively require.[1]

DIVISION ONE – GENERAL

¶ 1. ***Article I.*** *Declaration of Union* – The Evangelical United Brethren Church and The Methodist Church shall be united in one Church. The united Church, as thus

[1] The Constitution was adopted in Chicago, Illinois, on Nov. 11, 1966, by the General Conferences of The Evangelical United Brethren Church and The Methodist Church and thereafter by the requisite vote in the annual conferences of the two churches. The Plan of Union was made effective by the Uniting Conference in Dallas, Texas, on April 23, 1968.

constituted, is, and shall be, the successor of the two uniting churches.[2]

¶ 2. ***Article II.*** *Name* – The name of the Church shall be The United Methodist Church. The name of the Church may be translated freely into languages other than English as the General Conference may determine.

¶ 3. ***Article III.*** *Articles of Religion and the Confession of Faith* – The Articles of Religion and the Confession of Faith shall be those currently held by The Methodist Church and The Evangelical United Brethren Church respectively.

¶ 4. ***Article IV.*** *Inclusiveness of the Church* – The United Methodist Church is a part of the church universal, which is one Body in Christ. Therefore all persons, without regard to race, color, national origin, status,[3] or economic condition, shall be eligible to attend its worship services, to participate in its programs, and, when they take the appropriate vows, to be admitted into its membership in any local church in the connection. In The United Methodist Church no conference or other organizational unit of the Church shall be structured so as to exclude any member or any constituent body of the Church because of race, color, national origin, status, or economic condition.[4]

¶ 5. ***Article V.*** *Ecumenical Relations* – As part of the church universal, The United Methodist Church

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[2] Amended 1984.

[3] Amended 1992.

[4] *See* Judicial Council Decisions 242, 246, 340, 351, 362, 377, 398, 594, and Decisions 4 and 5, Interim Judicial Council.

believes that the Lord of the church is calling Christians everywhere to strive toward unity; and therefore it will seek, and work for, unity at all levels of church life: through world relationships with other Methodist churches and united churches re-

* * *

¶ 18. ***Article IV.*** – The General Conference shall not do away with the privileges of our clergy of right to trial by a committee and of an appeal; neither shall it do away with the privileges of our members of right to trial before the church, or by a committee, and of an appeal.[33]

¶ 19. ***Article V.*** – The General Conference shall not revoke or change the General Rules of Our United Societies.[34]

¶ 20. ***Article VI.*** – The General Conference shall not appropriate the net income of the publishing houses, the book concerns, or the Chartered Fund to any purpose other than for the benefit of retired or disabled preachers, their spouses, widows, or widowers, and children or other beneficiaries of the ministerial pension systems.[35]

Section IV. Jurisdictional Conferences

¶ 21. ***Article I.*** – The jurisdictional conferences shall be composed of as many representatives from the

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[33] *See* Judicial Council Decisions 351, 522, 557, 595.

[34] *See* Judicial Council Decisions 358, 468.

[35] *See* Judicial Council Decisions 322, 330.

annual conference and missionary conferences[36] as shall be determined by a uniform basis established by the General Conference. The missionary conferences shall be considered as annual conferences for the purpose of this article.[37]

¶ 22. ***Article II.*** – All jurisdictional conferences shall have the same status and the same privileges of action within the limits fixed by the Constitution. The ratio of representation of the annual conferences and missionary conferences[38] in the General Conference shall be the same for all jurisdictional conferences.

¶ 23. ***Article III.*** – The General Conferences shall fix the basis of representation in the jurisdictional conferences; *provided* that the jurisdictional conferences shall be composed of an equal number of clergy and lay delegates to be elected by the annual conferences, the missionary conferences,[39] and the provisional annual conferences.

¶ 24. ***Article IV.*** – Each jurisdictional conference shall meet at the time determined by the Council of Bishops or its delegated committee, each jurisdictional conference convening on the same date as the others and at a place selected by the jurisdictional committee on entertainment, appointed by its College of Bishops unless such a committee has been appointed by the preceding jurisdictional conference.

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[36] Amended 1976.

[37] Amended 1976.

[38] Amended 1976.

[39] Amended 1976.

¶ 25. ***Article V.*** – The jurisdictional conferences shall have the following powers and duties and such others as may be conferred by the General Conferences:

1. To promote the evangelistic, educational, missionary, and benevolent interests of the Church and to provide for interests and institutions within their boundaries.[40]

2. To elect bishops and to cooperate in carrying out such plans for their support as may be determined by the General Conference.

3. To establish and constitute jurisdictional conference boards as auxiliary to the general boards of the Church as the need may appear and to choose their representatives on the general boards in such manner as the General Conference may determine.[41]

4. To determine the boundaries of their annual conferences; *provided* that there shall be no annual conference with a membership of fewer than fifty clergy in full connection, except by the consent of the General Conference; and *provided* further that this provision shall not apply to annual conferences of the former Evangelical United Brethren Church during the first three quadrenniums after union.[42]

5. To make rules and regulations for the administration of the work of the Church within the jurisdiction,

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[40] *See* Judicial Council Decision 67.

[41] *See* Judicial Council Decision 183.

[42] *See* Judicial Council Decision 447.

subject to such powers as have been or shall be vested in the General Conference.

6. To appoint a committee on appeals to hear and determine the appeal of a traveling preacher of that jurisdiction from the decision of a trial committee.

Section V. Central Conferences

¶ 26. ***Article I.*** – There shall be central conferences for the work of the Church outside the United States of America[43] with such duties, powers, and privileges as are hereinafter set forth. The number and boundaries of the central conferences shall be determined by the Uniting Conference. Subsequently the General Conference shall have authority to change the number and boundaries of central conferences.

* * *

them when elected and at the time of holding the General and jurisdictional or central conferences.[58]

¶ 34. ***Article V.*** – The lay delegates to the General and jurisdictional or central conferences shall be elected by the lay members of the annual conference or provisional annual conference without regard to age; *provided* such delegates[59] shall have been members of The United Methodist Church for at least two years next preceding

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[43] Amended 1976.

[58] *See* Judicial Council Decisions 1, 162, 308, 403, 473, 531, 534, 537.

[59] Amended 1972.

their election, and shall have been active participants in The United Methodist Church for at least four years next preceding their election,[60] and are members thereof within the annual conference electing them at the time of holding the General and jurisdictional or central conferences.[61]

Section VII. Boundaries

¶ 35. ***Article I.*** – The United Methodist Church shall have jurisdictional conferences made up as follows:

Northeastern – Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, the Virgin Islands,[62] West Virginia.[63]

Southeastern – Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia.

North Central – Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, South Dakota, Wisconsin.

South Central – Arkansas, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, Texas.

Western – Alaska, Arizona, California, Colorado, Hawaii and the territory of the United States in the

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[60] Amended 1976.

[61] *See* Judicial Council Decisions 346, 354, 403.

[62] Amended 1980.

[63] Amended 1976.

Pacific region,[64] Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming.

¶ 36. ***Article II.*** – The work of the Church outside the United States of America[65] may be formed into central conferences, the number and boundaries of which shall be determined by the Uniting Conference, the General Conference having authority subsequently to make changes in the number and boundaries.

¶ 37. ***Article III.*** – Changes in the number, names, and boundaries of the jurisdictional conferences may be effected by the General Conference upon the consent of a majority of the annual conferences of each of the jurisdictional conferences involved.[66]

¶ 38. ***Article IV.*** – Changes in the number, names, and boundaries of the annual conferences and episcopal areas may be effected by the jurisdictional conferences in the United States of America[67] and by the central conferences outside the United States of America according to the provisions under the respective powers and pursuant to the respective structures[68] of the jurisdictional and the central conferences.[69]

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[64] Amended 1980.

[65] Amended 1976.

[66] *See* Judicial Council Decisions 55, 56, 85, 215.

[67] Amended 1976.

[68] Amended 1992.

[69] *See* Judicial Council Decisions 28, 85, 217, 525, 541, 735; and Decisions 1, 2, Interim Judicial Council.

¶ 39. *Article V. Transfer of Local Churches* – 1. A local church may be transferred from one annual conference to another in which it is geographically located upon approval by a two-thirds vote of those present and voting in each of the following:

a) the charge conference;

b) the congregational meeting of the local church;

c) each of the two annual conferences involved.

The vote shall be certified by the secretaries of the specified conferences or meetings to the bishops having supervision of the annual conferences involved, and upon their announcement of the required majorities the transfer shall immediately be effective.

2. The vote on approval of transfer shall be taken by each annual conference at its first session after the matter is submitted to it.

3. Transfers under the provisions of this article shall not be governed or restricted by other provisions of this Constitution relating to changes of boundaries of conferences.

Section VIII. District Conferences

¶ 40. *Article I.* – There may be organized in an annual conference, district conferences composed of such persons and invested with such powers as the General Conference may determine.

* * *

from Egypt, and in the ministry of the prophets. It is fully *embodied* in the life, death and resurrection of Jesus

Christ. It is *experienced* in the ongoing creation of a new people by the Holy Spirit.

John Wesley, Phillip Otterbein, Jacob Albright, and our other spiritual forebears understood this mission in this way. Whenever United Methodism has had a clear sense of mission, God has used our Church to save persons, heal relationships, transform social structures, and spread scriptural holiness, thereby changing the world. In order to be truly alive, we embrace Jesus' mandate to make disciples of all peoples.

The Process for Carrying Out Our Mission

We make disciples as we:

– proclaim the gospel, seek, welcome and gather persons into the body of Christ;

– lead persons to commit their lives to God through Jesus Christ;

– nurture persons in Christian living through worship, baptism, communion, Bible and other studies, prayer, and other means of grace;

– send persons into the world to live lovingly and justly as servants of Christ by healing the sick, feeding the hungry, caring for the stranger, freeing the oppressed, and working to have social structures consistent with the gospel; and

– continue the mission of seeking, welcoming and gathering persons into the community of the body of Christ.

The Global Nature of Our Mission

The Church seeks to fulfill its global mission through the Spirit-given servant ministries of all Christians, both lay and clergy. Faithfulness and effectiveness demand that all ministries in the Church be shaped by the mission of making disciples of Jesus Christ.

¶ 201. **A local church** is a community of true believers under the Lordship of Christ. It is the redemptive fellowship in which the Word of God is preached by persons divinely called and the sacraments are duly administered according to Christ's own appointment. Under the discipline of the Holy Spirit, the church exists for the maintenance of worship, the edification of believers, and the redemption of the world.

¶ 202. The church of Jesus Christ exists in and for the world. It is primarily at the level of the local church that the church encounters the world. The local church is a strategic base from which Christians move out to the structures of society. The function of the local church, under the guidance of the Holy Spirit, is to help people to personally know Jesus Christ and to live their daily lives in light of their relationship with God. Therefore, the local church is to minister to persons in the community where the church is located, to provide appropriate training and nurture to all, to cooperate in ministry with other local churches, to defend God's creation and live as an ecologically responsible community, and to participate in the worldwide mission of the church, as minimal expectations of an authentic church.

¶ 203. The local church is a connectional society of persons who have professed their faith in Christ, have been baptized, have assumed the vows of membership in

The United Methodist Church, and are associated in fellowship as a local United Methodist church in order that they may hear the Word of God, receive the sacraments, praise and worship the triune God, and carry forward the work that Christ has committed to his church. Such a society of believers, being within The United Methodist Church and subject to its *Discipline*, is also an inherent part of the church universal, which is composed of all who accept Jesus Christ as Lord and Savior, and which in the Apostles' Creed we declare to be the holy catholic church.

¶ **204**. Each local church shall have a definite evangelistic, nurture, and witness responsibility for its members and the surrounding area and a missional outreach responsibility to the local and global community. It shall be responsible for ministering to all its members, wherever they live, and for persons who choose it as their church.

¶ **205.** 1. A pastoral charge shall consist of one or more churches that are organized under and subject to the *Discipline* of The United Methodist Church, with a charge conference, and to which an ordained or licensed minister is or may be duly appointed or appointable as pastor in charge or co-pastor. Where co-pastors are appointed, the bishop may designate for administrative purposes one as pastor in charge.[1]

2. A pastoral charge of two or more churches may be designated a circuit or a cooperative parish.

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[1] *See* Judicial Council Decisions 113, 319.

3. A pastoral charge may be designated by the bishop and cabinet as a "teaching parish" when either a local church with a pastor or a cooperative parish with a director is available to serve as a counseling elder for a probationary, local, or student pastor appointed or assigned to the teaching parish. A teaching parish shall have a demonstrable

* * *

known) to the General Board of Discipleship, a letter of notification, giving the latest known address of the person or persons concerned and requesting local pastoral oversight.

¶ 238. Laypersons in service outside the United States under the General Board of Global Ministries and assigned to churches other than United Methodist may accept all the rights and privileges, including associate membership, offered them by a local church in their place of residence without impairing their relationship to their home local church.

¶ 239. When a pastor discovers a member of The United Methodist Church residing in the community whose membership is in a church so far removed from the place of residence that the member cannot participate regularly in its worship and activity, it shall be the duty and obligation of the pastor to give pastoral oversight to such person and to encourage transfer of membership to a United Methodist church in the community where the member resides.

¶ 240. When a pastor receives a request for a transfer of membership from the pastor of another United Methodist church or a district superintendent, that pastor

shall send the proper certificate directly to the pastor of the United Methodist church to which the member is transferring, or if there is no pastor, to the district superintendent. On receipt of such a **certificate of transfer**, the pastor or district superintendent shall enroll the name of the person so transferring after public reception in a regular service of worship, or if circumstances demand, public announcement in such a service. The pastor of the church issuing the certificate shall then be notified, whereupon said pastor shall remove the member from the roll.

Certificates of transfer shall be accompanied by two official forms. A "Notice of Transfer of Membership" is to be sent to the member by the pastor who transfers the membership. An "Acknowledgment of Transfer of Membership" is to be sent to the former pastor by the pastor who receives the transferred member.

In case the transfer is not made effective, the pastor shall return the certificate to the pastor of the sending church.

¶ 241. A pastor, upon receiving a request from a member to transfer to a church of another denomination, or upon receiving such request from a pastor or duly authorized official of another denomination, shall (with the approval of the member) issue a certificate of transfer and, upon receiving confirmation of said member's reception into another congregation, shall properly record the transfer of such person on the membership roll of the local church; and the membership shall thereby be terminated.[5]

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[5] *See* Judicial Council Decision 696.

For the transfer of a member of The United Methodist Church to a church of another denomination, an official "Transfer of Membership to Another Denomination" form shall be used.

¶ 242. If a pastor is informed that a member has without notice united with a church of another denomination, the pastor shall make diligent inquiry and, if the report is confirmed, shall enter "Withdrawn" after the person's name on the membership roll and shall report the same to the next charge conference.

¶ 243. Persons may be removed from the roll of baptized members by death, transfer, withdrawal or removal for cause, with the understanding that withdrawal or removal for cause in no way abrogates the baptismal covenant from God's side. When a person returns to the church, he or she affirms the baptismal vows and, without rebaptism, becomes a professing member.

If a member proposes to withdraw from The United Methodist Church, that member shall communicate the purpose in writing to the pastor of the local church in which membership is held. On receiving such notice of withdrawal, the pastor shall properly record the fact of withdrawal on the membership roll. If requested, the pastor shall give a statement of withdrawal to such member. Such person, upon written request, may be restored to membership on recommendation of the pastor.

¶ 244. Persons may be removed from the roll of professing members by death, transfer, withdrawal, charge conference action or removal for cause (*See* ¶¶ 229, 231, 236-243, 2627.4.)

Section VI. Organization and Administration

¶ 245. The local church shall be organized so that it can pursue its primary task and mission in the context of its own community – reaching out and receiving with joy all who will respond; encouraging people in their relationship with God and inviting them to commitment to God's love in Jesus Christ; providing opportunities for them to seek strengthening and growth in spiritual formation; and supporting them to live lovingly and justly in the power of the Holy Spirit as faithful disciples.

In carrying out its primary task, it shall be organized so that adequate provision is made for these basic responsibilities: (1) planning and implementing a program of nurture, outreach, and witness for persons and families within and without the congregation; (2) providing for effective pastoral and lay leadership; (3) providing for financial support, physical facilities, and the legal obligations of the church; (4) utilizing the appropriate relationships and resources of the district and annual conference; (5) providing for the proper creation, maintenance, and disposition of documentary record material of the local church; and (6) seeking inclusiveness in all aspects of its life without regard to race, gender, age, national origin, or disabilities.

¶ 246. The basic organizational plan for the local church shall include provision for the following units: a charge conference, a church council, a committee on pastor-parish relations, a board of trustees, a committee on finance, a committee on nominations and personnel, and such other elected leaders, commissions, councils, committees, and task forces as the charge conference may determine. Every local church shall develop a plan for

organizing its administrative and programmatic responsibilities. Each local congregation shall provide a comprehensive program of nurture, outreach, and witness, along with leadership training, and the planning and administration of the congregation's organizational and temporal life, in accordance with the mission of The United Methodist Church (*See* ¶¶ 101-120).

1. The church council and all other administrative and programmatic structures of the local church shall be amenable to the charge conference (*see* ¶ 248). The church council shall function as the executive agency of the charge conference.

2. Alternative plans may be developed in accordance with the provisions of ¶ 249.2. Such alternatives include: nurture, outreach, and witness ministries; administrative council; or administrative board/council on ministries.

3. Members of the church council or alternative structure shall be persons of genuine Christian character who love the church, are morally disciplined, are committed to the mandate of inclusiveness in the life of the church, are loyal to the ethical standards of The United Methodist Church set forth in the Social Principles, and are competent to administer its affairs. It shall include youth members chosen according to the same standards as adults. All shall be members of the local church, except where central conference legislation provides otherwise. The pastor shall be the administrative officer and, as such, shall be an ex officio member of all conferences, boards,

councils, commissions, committees, and task forces, unless otherwise restricted by the *Discipline*.[6]

¶ 247. *Standards for Computer Information and Data* – Each local church, as it creates or maintains computerized information and data, shall be strongly encouraged to use the denominational standards for computer information and data and the operations and legal guidelines for church computer data established and maintained by the General Council on Finance and Administration.

THE CHARGE CONFERENCE

Members of the charge conference shall be persons of genuine Christian character who love the Church, are morally disciplined, are committed to the mandate of inclusiveness in the life of the Church, are loyal to the ethical standards of The United Methodist Church set forth in the Social Principles, and are competent to administer its affairs. It shall include youth members chosen according to the same standards as adults. All shall be members of the local church, except where central conference legislation provides otherwise. The pastor shall be the administrative officer, and as such shall be an ex officio member of all conferences, boards, councils, commissions, committees, and task forces, unless restricted by the *Discipline*.

¶ 248. *General Provisions* – 1. Within the pastoral charge the basic unit in the connectional system of The

[6] *See* Judicial Council Decisions 469, 500.

United Methodist Church is the **charge conference**. The charge conference shall therefore be organized from the church or churches in every pastoral charge as set forth in the Constitution (¶ 41). It shall meet annually for the purposes set forth in ¶ 249. It may meet at other times as indicated in § 7 below.

2. The membership of the charge conference shall be all members of the church council or other appropriate body, together with retired ordained ministers and retired diaconal ministers who elect to hold their membership in said charge conference and any others as may be designated in the *Discipline*. If more than one church is on the pastoral charge, all members of each church council shall be members of the charge conference.

3. The charge conference may make provision for recognition of the faithful service of members of the church council by electing them

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or 10 percent of the membership of the local church. In any case a copy of the request shall be given to the pastor. Additional regulations governing the call and conduct of the charge conference as set forth in ¶¶ 248-249 shall apply also to the church conference. A joint church conference for two or more churches may be held at the same time and place as the district superintendent may determine. A church conference shall be conducted in the language of the majority with adequate provision being made for translation. (For church local conference *see* ¶ 2526.)

¶ 251. The charge conference, or church conference authorized by the district superintendent, shall elect upon

nomination of the committee on nominations and personnel of each local church on the pastoral charge, or by nomination from the floor and by vote of each such local church, at least the following leaders for the four basic responsibilities (¶ 246):

1. Chairperson of the church council.

2. The committee on nominations and personnel.

3. The committee on pastor-parish relations and its chairperson.

4. A chairperson and additional members of the committee on finance; the financial secretary and the church treasurer(s) if not paid employees of the local church; and the trustees as provided in ¶¶ 2525-2527, unless otherwise required by state law.

5. The lay member(s) of the annual conference and lay leader(s).

6. A recording secretary. (*See* ¶ 249.4.)

7. Special attention shall be given to the inclusion of women, men, youth, young adults, persons over sixty-five years of age: persons with disabilities, and racial and ethnic persons.

8. All local church offices and all chairs of organizations within the local church may be shared between two persons, with the following exceptions: trustee, officers of the board of trustees, treasurer, lay member of annual conference, member and chairperson of the committee on staff or pastor-parish relations. When two persons jointly hold a position that entails membership on the church council, both may be members of it.

¶ 252. *Removal of Officers and Filling of Vacancies* – If a leader or officer who has been elected by the charge conference is unable or unwilling to perform the duties reasonably expected of such a leader or officer, the district superintendent may call a special session of the charge conference in accordance with ¶ 248.7. The purpose of such special session shall be stated as "Consideration for the removal of

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3. Men seeking membership in a local unit of United Methodist Men will be asked to subscribe to the major concerns listed in § 2 above and to these personal objectives:

a) To engage daily in Bible study and prayer.

b) To bear witness to Christ's way in daily work and in all personal contacts through words and actions.

c) To engage in Christian service.

4. Units of United Methodist Men may be formed in clusters and in other groupings of local churches as needed.

5. The duly appointed pastor(s) of the church shall be ex officio member(s) of the unit and its executive committee.

¶ 260. Where the size of the church and the extent of the program indicate the need, the work of the church council (or other appropriate body) may be facilitated by one or more age-level councils and/or a family council, or such other means as fit the needs of the congregation. The membership of these councils shall be elected by the church council (or other appropriate body).

¶ 261. *Classes, Class Leaders, and Class Meetings* – A structure for **classes, class leaders, and class meetings** may be organized within the local congregation.

Administrative Committees

¶ 262. 1. There shall be elected annually by the charge conference in each local church a **committee on nominations and personnel** who are members of the local church. This committee is to be composed of not more than nine persons in addition to the pastor and the lay leader. The pastor shall be the chairperson. This committee shall choose a layperson from the membership of the committee as co-chairperson with the pastor. The committee shall nominate to the charge conference or church conference in its annual session such officers and members of the church council, charge conference, and committees as the law of the Church requires or as the conference may determine as necessary to its work; *provided* that to secure experience and stability, the membership shall be divided into three classes, one of which shall be elected each year for a three-year term; *provided* further, that to begin the process of rotation, on the first year one class be elected for one year, one class for two years, and one for three years; *provided* further, that each year the new class of members to serve on the committee on nominations and personnel, and vacancies as they occur, shall be elected from nominees from the floor. At least one young adult, elected by the charge conference or church conference, shall serve as a member of the committee on nominations and personnel. One or more members of this committee, elected by the charge conference or church conference, may be youth. Churches are encouraged to establish a policy that retiring

members of the committee on nominations and personnel not succeed themselves.

The committee on nominations and personnel shall serve throughout the year to guide the church council on personnel matters (other than employed staff) and recruit, support, and recognize leaders and provide for their training so as to coordinate the leadership and service needs with personnel of the congregation, working in relationship to the committees of the church council in both its nominations and personnel guidance.

In the nomination process, care shall be given that each board, committee, and council, as well as the total nominated personnel shall, insofar as possible, be representative of persons with disabilities and the age level, sexual, cultural, racial or ethnic membership, as well as economic, social, and theological orientation of the congregation.

2. There shall be a **committee on pastor-parish relations (staff-parish relations)** of not fewer than five nor more than nine laypersons representative of the total charge. However, there may be situations where the multilanguage needs of a particular charge warrant a larger committee. One of the five to nine persons shall be a young adult. One of the five to nine persons may be a senior high youth. All shall be members of the local church or charge or associate members in United Methodist churches that are open for worship twenty-six or fewer weeks per year, except where central conference legislation or local law provides otherwise. No staff member or

immediate family member of a pastor or staff member may serve on the committee.[10] In addition to the five to nine persons, a lay member of annual conference shall also be a member. In the event that the lay leader is not an elected member of the committee or the designated lay member of annual conference, then the lay leader shall be an ex officio member without vote. Only one person from an immediate family residing in one same household shall serve on the committee. If a person ineligible to serve on the committee is elected as a lay member to annual conference, then the committee shall consist of the five to nine persons only.

a) The members, including the chairperson, shall be elected by the charge conference upon nomination by the committee on nominations and personnel or by nomination from the floor. In order to secure experience and stability, the membership (not including the lay member of annual conference) shall be divided into three classes, one of which shall be elected each year for a three-year term. Where there is more than one church on a charge, the committee shall include at least one representative from each congregation with a representative of each church to be a member of that church's council. Churches are encouraged to establish a policy that retiring members of the committee on pastor-parish relations (staff-parish relations) not succeed themselves.

b) In those charges where there is a multiple staff, full or part time, or there are members who are deacons appointed to relate to this church, the committee shall

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[10] *See* Judicial Council Decision 778.

relate to the entire staff, clergy and lay. The committee shall relate to all diaconal ministers related to the local church, including those appointed for service beyond the local church. The committee shall provide to all staff members direct personal and professional access to the committee on pastor-parish relations as well as to the pastor, the district superintendent, and the bishop. In such cases the committee may be known as the committee on staff-parish relations.

c) In those charges where there is more than one church, the committee shall include at least one representative from each local church. The charge conference may appoint a local church **pastoral advisory committee** for those churches desiring such a committee. The advisory committee shall consist of three persons placed in three classes with the chairperson serving as a member of the charge committee. The committee shall meet upon request of the pastor or of the chairperson, and its duties shall be those outlined in ¶ 262.2*f*(3) and (4). The committee shall meet only with the knowledge of the pastor.

d) The committees on pastor-parish relations of charges that are in cooperative parish ministries shall meet together to consider the professional leadership needs of the cooperative parish ministry as a whole. Where churches are organized as a larger parish, the committee on pastor-parish relations shall consist of at least one representative from each church. Individual churches may form pastoral advisory committees as needed.

e) The committee shall meet at least quarterly. It shall meet additionally at the request of the bishop, the district superintendent, the pastor, any member of the professional staff, or the chairperson of the committee. To

fulfill his or her obligation under ordination, his or her connectional responsibility under appointment, and his or her duty as a pastor, the pastor should be present at each meeting of the committee on pastor-parish relations except where he or she voluntarily excuses himself or herself. The committee shall meet only with the knowledge of the pastor and/or the district superintendent. It may meet with the district superintendent without the pastor being present. However, the pastor or any member of the staff under consideration shall be notified prior to such meeting at which his or her employment is discussed and be brought into consultation immediately thereafter. In the event that only one congregation on a charge containing more than one church has concerns it wishes to share, its member(s) in the committee may meet separately with the pastor or any member of the professional staff or the district superintendent, but only with the knowledge of the pastor and/or district superintendant. The committee may meet in closed session upon recommendation of the pastor, any other person accountable to the committee, the chairperson of the committee, or the district superintendent.

f) The duties of the committee shall include the following:

(1) To confer and counsel with the pastor and staff in making an effective ministry by being available for counsel, keeping the pastor and staff advised concerning conditions within the congregation as they affect relations between the pastor or staff and the people, and continually interpreting to the people the nature and function of the ministry, including cross-racial appointments, appointments of women, and sensitivity to open itinerancy.

(2) To develop and approve written job descriptions and titles for associate pastors and other staff members. The term "associate pastor" is used as a general term to indicate any pastoral appointment in a local church other than pastor in charge (*see* ¶ 330). Committees shall be encouraged to develop specific titles for associate pastors that reflect the job descriptions and expectations.

(3) To counsel with the pastor and staff on matters pertaining to their relationship with the congregation, including priorities to be given in the use of their time and skill in relation to the goals and objectives set for the congregation's mission and the demands upon the ministry.

(4) To provide evaluation annually for the pastor's and staff's use in an ongoing effective ministry and for identifying continuing education needs and plans. The criteria, processes, and training for evaluation and continuing education shall be developed by the conference board of ordained ministry and cabinet (¶¶ 347, 348).

(5) To consult on matters pertaining to pulpit supply, proposals for compensation, travel expense, vacation, health and life insurance, pension, housing (which may be a church-owned parsonage or housing allowance in lieu of parsonage if in compliance with the policy of the annual conference), and other practical matters affecting the work and families of the pastor and staff, and to make annual recommendations regarding such matters to the church council, reporting budget items to the committee on finance. The parsonage is to be mutually respected by the pastor's family as the property of the church and by the church as a place of privacy for the pastor's family. The chairperson of the committee on pastor-parish relations,

the chairperson of the board of trustees, and the pastor shall make an annual review of the church-owned parsonage to assure proper maintenance.

(6) To consult with the pastor and staff concerning continuing education and spiritual renewal, to arrange with the church council for the necessary time and financial assistance for the attendance of the pastor and/or staff at such continuing education and spiritual renewal events as may serve their professional and spiritual growth, and to encourage staff members to seek professional certification in their fields of specialization.

(7) To enlist, interview, evaluate, review, and recommend annually to the charge conference lay preachers and persons for candidacy for ordained ministry (see ¶¶ 249.8 and 305), and to enlist and refer to the General Board of Global Ministries persons for candidacy for missionary service, recognizing that The United Methodist Church affirms the biblical and theological support of women and men of all races and ethnic origin for these ministries. Neither the pastor nor any member of the committee on pastor-parish relations shall be present during the consideration of a candidacy application or renewal for a member of their immediate family. The committee shall provide to the charge conference a list of students from the charge who are preparing for ordained ministry, diaconal ministry, and/or missionary service, and shall maintain contact with these students, supplying the charge conference with a progress report on each student.

(8) To interpret preparation for ordained ministry and the Ministerial Education Fund to the congregation.

(9) To confer with the pastor and/or other appointed members of the staff if it should become evident that the best interests of the charge and pastor(s) will be served by a change of pastor(s). The committee shall cooperate with the pastor(s), the district superintendent, and the bishop in securing clergy leadership. Its relationship to the district superintendent and the bishop shall be advisory only.[11] (*See* ¶¶ 430-433.)

(10) To recommend to the church council, after consultation with the pastor, the professional and other staff positions (whether employee or contract) needed to carry out the work of the church or charge. The committee and the pastor shall recommend to the church council a written statement of policy and procedures regarding the process for hiring, contracting, evaluating, promoting, retiring, and dismissing staff personnel who are not subject to Episcopal appointment as ordained clergy. Until such a policy has been adopted, the committee and the pastor shall have the authority to hire, contract, evaluate, promote, retire, and dismiss nonappointed personnel. When persons are hired or contracted, consideration shall be given to the training qualifications and certification standards set forth by the general Church agency to which such positions are related. The committee shall further recommend to the church council a provision for adequate health and life insurance, pension benefits, and severance pay for all lay employees.

(11) To recommend to the charge conference, when the size of the employed staff of the charge makes it

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[11] *See* Judicial Council Decision 701.

desirable, the establishment of a personnel committee. This committee shall be composed of such members of the committee on pastor-parish relations as it may designate and such additional members as the charge conference may determine.

3. There shall be a **board of trustees** whose membership and duties are detailed on ¶¶ 2524-2549.

4. There shall be a **committee on finance**, elected annually by the charge conference upon nomination by the committee on nominations and personnel or from the floor, composed of the chairperson; the pastor(s); a lay member of the annual conference; the chairperson of the church council; the chairperson or representative of the committee on pastor-parish relations; a representative of the trustees to be selected by the trustees; the chairperson of the ministry group on stewardship; the lay leader; the financial secretary; the treasurer; the church business administrator; and other members to be added as the charge conference may determine. It is recommended that the chairperson of the committee on finance shall be a member of the church council. The financial secretary, treasurer, and church business administrator, if paid employees, shall be members without vote.

Where there is no stewardship ministry area, stewardship shall be the responsibility of a subgroup of the committee on finance or shall be assigned to a task group that shall report to the church council.

All financial askings to be included in the annual budget of the local church shall be submitted to the committee on finance. The committee on finance shall compile annually a complete budget for the local church and submit it to the church council for review and adoption.

The committee on finance shall be charged with responsibility for developing and implementing plans that will raise sufficient income to meet the budget adopted by the church council. It shall administer the funds received according to instructions from the church council.

The committee shall carry out the church council's directions in guiding the treasurer(s) and financial secretary.

a) The committee shall designate at least two persons (preferably not of the same family) to count the offering, giving a record of funds received to both the financial secretary and church treasurer. Funds received shall be deposited promptly in accordance with procedures established by the committee on finance. The financial secretary shall keep records of the contributions and payments.

b) The **church treasurer(s)** shall disburse all money contributed to causes represented in the local church budget, and such other funds and contributions as the church council may determine. The treasurer(s) shall remit each month to the conference treasurer all World Service and conference benevolence funds then on hand. Contributions to benevolence shall not be used for any cause other than that to which they have been given. The church treasurer shall make regular and detailed reports on funds received and expended to the committee on

finance and the church council.[12] The treasurer(s) shall be adequately bonded.

c) The committee shall make provision for an annual audit of the records of the financial officers of the local church and all its organizations and shall report to the charge conference.

d) The committee shall recommend to the church council proper depositories for the church's funds. Funds received shall be deposited promptly in the name of the local church.

e) Contributions designated for specific causes and objects shall be promptly forwarded according to the intent of the donor and shall not be used for any other purpose.

f) After the budget of the local church has been approved, additional appropriations or changes in the budget must be approved by the church council.

g) The committee shall prepare annually a report to the church council of all designated funds that are separate from the current expense budget.

5. The church council may appoint such other committees as it deems advisable, including: committee on communications, committee on records and history, committee on health and welfare, and committee on memorial gifts.

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[12] *See* Judicial Council Decisions 63, 320, 539.

Section VII. The Method of Organizing a New Local Church

¶ 263. 1. **A new local church** or mission shall be established only with the consent of the bishop in charge and the cabinet and with due consideration of the conference board of global ministries' programs of home missions and church extension (if any; *see* ¶ 631). The bishop shall designate the district within whose bounds the church shall be organized. The district superintendent of that district shall be the agent in charge of the project and shall recommend to the district board of church location and building (¶ 2518) the site for the proposed new congregation, or shall recommend to the board of trustees of a selected local church that they share their facility with the proposed congregation. If there is a city or district missionary organization, that body shall also be asked to approve this site.

2. The district superintendent shall call the persons interested in the proposed church to meet at an appointed time and place, or may by written authorization designate any pastor in the district to call such a meeting.

3. The district superintendent or the pastor to whom authority is designated shall preside and shall appoint a secretary to keep a record of the meeting. Following a period of worship, opportunity shall be given those in attendance to present themselves for membership by proper certificates of transfer. Pastors issuing such certificates to a church not yet organized shall describe therein the proposed new church to which it is issued, as, for instance, "the proposed new church on Boston Avenue."

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Chapter Three

THE SUPERINTENDENCY

Section I. The Nature of Superintendency

¶ 401. *Task* – The task of superintending in The United Methodist Church resides in the office of bishop and extends to the district superintendent, with each possessing distinct and collegial responsibilities. The mission of the Church is to make disciples of Jesus Christ (*see* Chapter One, Section I.). From apostolic times, certain ordained persons have been entrusted with the particular tasks of superintending. The purpose of superintending is to equip the Church in its disciple-making ministry. Those who superintend carry primary responsibility for ordering the life of the Church. It is their task to enable the gathered Church to worship and to evangelize faithfully.

It is also their task to facilitate the initiation of structures and strategies for the equipping of Christian people for service in the Church and in the world in the name of Jesus Christ and to help extend the service in mission. It is their task, as well, to see that all matters, temporal and spiritual, are administered in a manner that acknowledges the ways and the insights of the world critically and with understanding while remaining cognizant of and faithful to the mandate of the Church. The formal leadership in The United Methodist Church, located in these superintending offices, is an integral part of the system of an itinerant ministry.[1]

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[1] *See* Judicial Council Decision 524.

¶ 402. *Guidelines for Superintending in this Age* – The demands of this age on the leadership of bishops and district superintendents in The United Methodist Church can be seen in mode, pace, and skill:

1. *Mode* – Leaders need to be able to read consensus and integrate it into a living tradition, to be open to the prophetic word, to be skilled in team-building, and to be effective in negotiation. The style of leadership should rise out of nurtured and cultivated spiritual disciplines and patterns of holiness, for the Spirit is given to the community and its members to the extent that they participate.

2. *Pace* – Beyond formal systems of accountability, leaders need to open themselves to forms of accountability that they cultivate for themselves through a support group. Such a group can listen, can help, and can clarify, as well as participate with the leader, as he or she thinks through time demands and constraints in the process of sorting out of priorities. Appropriate time must be taken for reflection, study, developing friendships, and self-renewal.

3. *Skill* – Among the skills needed by leaders are spiritual discipline, theological reflection, building the unique inclusive community of the Church and of the larger community as well. Reading the signs of the times, analyzing, designing strategy, assessing needs, organizing a wide range of resources, and evaluating programs and personnel are yet other skills crucial for leaders.

Section II. Offices of Bishop and District Superintendent

¶ 403. The offices of **bishop and district superintendent** exist in The United Methodist Church as particular ministries. Bishops are elected and district superintendents are appointed from the group of elders who are ordained to be ministers of Word, Sacrament, and Order and thereby participate in the ministry of Christ, in sharing a royal priesthood that has apostolic roots (1 Peter 2:9; John 21:15-17; Acts 20:28; 1 Peter 5:2-3; 1 Timothy 3:1-7).

¶ 404. Bishops and superintendents share in the full ministry as ordained elders. The body of Christ is one; yet many members with differing functions are all joined together in the one body (1 Corinthians 12:28).

1. Bishops are elders in full connection who are elected from the elders and set apart for a ministry of general oversight and supervision (¶ 401). As followers of Jesus Christ called to servant leadership, bishops are authorized to guard the faith, order, liturgy, doctrine, and discipline of the Church; to seek and be a sign of the unity of the faith; to exercise the discipline of the whole Church; to supervise and support the Church's life, work, and mission throughout the world; and to lead all persons entrusted to their oversight in worship, in the celebration of the sacraments, and in their mission of witness and service in the world. Bishops carry a primary responsibility to support and encourage the ministry of all Christians. They share with other bishops in the supervision of the whole Church, encouraging and supporting all baptized people in the exercising of their gifts and ministries, praying for them, and proclaiming and interpreting to

them the gospel of Christ. Bishops are to be prophetic voices and courageous leaders in the cause of justice for all people. Bishops are also authorized to appoint ordained clergy to their responsibilities, consecrate, ordain, and commission persons in ministry to the Church and world.

2. District superintendents are elders in full connection appointed by the bishop to the cabinet and assigned to responsibilities of oversight and supervision within a district and in the entire annual conference (¶ 401). A servant leader who serves as an extension of the oversight of the bishop, the district superintendent is authorized to fulfill those responsibilities designated in the *Book of Discipline* under the supervision of the resident bishop.

Section III. Election, Assignment, and Termination of Bishops

¶ 405. *Bishops in Jurisdictions* – 1. Each jurisdiction having 500,000 church members or fewer shall be entitled to six bishops, and each jurisdiction having more than 500,000 church members shall be entitled to one additional bishop for each additional 320,000 church members or major fraction thereof, *provided,* however, that in those jurisdictions where this requirement would result in there being an average of more than 55,000 square miles per episcopal area, such jurisdiction shall be entitled to six bishops for the first 400,000 church members or fewer and for each additional 290,000 church members or two thirds thereof shall be entitled to one additional bishop.

2. In central conferences, the number of bishops shall be determined on the basis of missional needs, as approved by the General Conference on recommendation of the Commission on Central Conference affairs.

3. This legislation shall take effect upon adjournment of the 1996 General Conference.

¶ 406. *Election* – 1. *Nomination* – An annual conference, in the session immediately prior to the next regular session of the jurisdictional or central conference, may name one or more nominees for episcopal election. Balloting at jurisdictional and central conferences shall not be limited to nominees of annual conferences nor shall any jurisdictional or central conference delegate be bound to vote for any specific nominee. Each jurisdictional or central conference shall develop appropriate procedures for furnishing information about nominees from annual conferences. This shall be done at least two weeks prior to the first day of the jurisdictional or central conference. Similar procedures shall be developed for persons nominated by ballot who receive ten votes,

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determined by the bishop or required by the *Discipline* or action of the annual conference. When a district superintendent is no longer appointed to the cabinet, the bishop shall give that person's supervisory file to the superintendent of record. Supervisory records shall be kept under guidelines approved by the General Council on Finance and Administration. The supervisory records maintained by the bishop are not the personnel records of the annual conference.

Section V. Selection, Assignment, and Term of District Superintendents

¶ 417. *Selection and Assignment* – Inasmuch as the district superintendency is an extension of the general

superintendency, the bishop shall appoint elders to serve as district superintendents. Prior to each appointment, the bishop shall consult with the cabinet and the committee on district superintendency of the district to which the new superintendent will be assigned (¶ 431) for the purpose of determining leadership needs of the annual conference and the district (¶¶ 401-402). In the selection of superintendents, bishops shall give due consideration to the inclusiveness of The United Methodist Church with respect to sex, race, national origin, physical challenge, and age, except for the provisions of mandatory retirement.

¶ 418. *Limitations on Years of Service* – The normal term for a district superintendent shall be up to six years, but this may be extended to no more than up to eight years at the discretion of the bishop, in consultation with the cabinet and the district committee on superintendency. No superintendent shall serve for more than eight years in any consecutive eleven years. No elder shall serve as district superintendent more than twelve years. In addition, consideration shall be given to the nature of superintendency as described in ¶¶ 401-402.[15]

Section VI. Specific Responsibilities of District Superintendents

¶ 419. The district superintendent shall oversee the total ministry of the clergy and of the churches in the communities of the district in their missions of witness

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[15] *See* Judicial Council Decisions 368, 512.

and service in the world: (*a*) by giving priority to the scheduling of time and effort for spiritual leadership, pastoral support, supervision, and encouragement to the clergy and to the churches of the district; (*b*) by encouraging their personal, spiritual, and professional growth; (*c*) by encouraging their personal commitment to the mandate of inclusiveness in the life of the church; (*d*) by participating with the bishops in the appointment-making process; (*e*) by enabling programs throughout the district that may assist local churches to build and extend their ministry and mission with their people and to the community; (*f*) by working in cooperation with appropriate district and annual conference agencies to explore long-range, experimental, ecumenical, multicultural, multiracial, and cooperative ministries; (*g*) to provide representation and leadership in the district in the quest for Christian unity in ministry and mission, encouraging local congregations in the development of an understanding and relationship with other living faith communities and in working with ecumenical agencies and coalitions in the sharing of resources, and, where appropriate, serving as an ecumenical liaison with other living faith communities; (*h*) by assisting the bishop in the administration of the annual conference. In the fulfillment of this ministry, the superintendent shall consult at least annually (¶ 662.3) with the committee on district superintendency. In the context of these basic responsibilities, the district superintendent shall give attention to the following specific tasks.[16]

[16] *See* Judicial Council Decision 398.

¶ 420. *Spiritual and Pastoral Leadership* – The district superintendent is responsible for giving spiritual leadership to clergy and laity in the churches of the district. The district superintendent should model and encourage spiritual formation through the practices of personal prayer, Bible study, communal worship, service, and frequent participation in the sacraments of baptism and Holy Communion.

1. To give pastoral support and care to the ordained, licensed, consecrated, and commissioned personnel and their families by traveling through the district, preaching, visiting, and maintaining the connectional order of the *Discipline*.

2. To counsel with clergy and with consecrated and commissioned personnel concerning matters affecting their ministry and personal life.

3. To encourage the building of covenantal community among the clergy and among consecrated and commissioned personnel for mutual support and discipline; to build systems of mutual support for clergy and diaconal families.

¶ 421. *Supervision* – 1. To work with pastors, diaconal ministers, and charge conferences in formulating statements of purpose for congregations in fulfilling their mission and with committees on pastor-parish relations to clarify the pastors' and diaconal ministers' priorities for ministry.

2. To establish a clearly understood process of supervision for clergy of the district, including observation of all aspects of ministry, direct evaluation and feedback to the clergy involved.

3. To consult with committees on pastor-parish relations to update their profiles for appointment in accordance with ¶ 432.1 and with pastors to update their profiles for appointment in accordance with ¶ 432.2.[17]

4. To make specific provision for the supervision of probationary members and local pastors appointed within the district and for building clusters for supervision with the assistance of mentors.

5. To receive annually from each clergyperson a report of his or her program of continuing education and spiritual growth, to give counsel concerning future plans, and to encourage congregations to give time and financial support for such programs.

¶ 422. *Personnel* – 1. To work with pastors and diaconal ministers, committee on pastor-parish relations, and congregations in interpreting the meaning of ministry and in identifying and enlisting candidates of the highest quality for ordained ministry, with special concern for the inclusiveness of the Church with respect to sex, race, and national origin.

2. To work with the district committee on ordained ministry in enabling a meaningful and appropriate examination of candidates into ordained ministry; to issue and renew licenses to preach when authorized (¶ 341); to keep careful records of all such candidates; to maintain regular communication with all candidates in order to advise and encourage them in spiritual and academic preparation for their ministry. The district superintendent shall not serve

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[17] *See* Judicial Council Decision 701.

as chairperson of the district committee on ordained ministry.

3. To work with the bishop and cabinet in the process of appointment and assignment for ordained ministers.

4. To cooperate with the board of ordained ministry in its efforts to provide or arrange support services and liaison for pastors at times of changing conference relationships or termination (¶¶ 345, 350-358, 359-360).

¶ 423. *Administration* – 1. To schedule and preside, or authorize an elder to preside, in each annual charge conference or church conference within the district (¶¶ 248, 250).

2. To administer the district office, including supervision of support staff (¶¶ 611.1*a*; 662.4*a*).

3. To develop adequate compensation for all clergy, including provision for housing, utilities, travel, and continuing education.

4. To keep and maintain appropriate supervisory records on all ministerial personnel appointed or related to charges within the district. Supervisory records shall be kept under guidelines approved by the General Council on Finance and Administration. At the time of appointment change, supervisory records shall be given to the superintendent of record. The bishop shall be the superintendent of record for the district superintendents.

5. To cooperate with the district board of church location and building and local church boards of trustees or building committees in arranging acquisitions, sales, transfers, and mortgages of property; and to ensure that all charters, deeds, and other legal documents conform to

the *Discipline* and to the laws, usages, and forms of the county, state, territory, or country within which such property is situated and to keep copies thereof.

6. To ensure that an investigation be made and a plan of action be developed for the future missional needs of The United Methodist Church or the community prior to consenting to the proposed action to sell or transfer any United Methodist local church property.

7. To keep accurate and complete records for one's successor, including:

a) All abandoned church properties and cemeteries within the bounds of the district;

b) All church properties being permissively used by other religious organizations, with the names of the local trustees thereof;

c) All known endowments, annuities, trust funds, investments, and unpaid legacies belonging to any pastoral charge or organization connected therewith in the district and an accounting of their management;

d) Membership of persons from churches that have been closed.

8. To receive a plan for the cultivation of giving from each congregation that includes promotion for current and deferred financial support in local churches for district conference, and denominational causes.

9. To develop with appropriate district committees strategies that give careful attention to the needs of

churches of small membership and to the formation of cooperative ministries.

10. To transfer members of a discontinued church to another United Methodist church of their choice or to such other churches as members may elect.

11. To recommend to the bishop for approval, after consultation with the churches involved, any realignment of pastoral charge lines and report them to the annual conference.

12. To serve within the district as acting administrator of any pastoral charge in which a pastoral vacancy may develop or where no pastor has been appointed.[18]

13. To see that the provisions of the *Discipline* are observed and to interpret and decide all questions of Church law and discipline raised by the churches in the district, subject to an appeal to the president of the annual conference.

14. To secure an annual audit report of any and all district funds and send a copy to the district conference or annual conference council on finance and administration.

¶ 424. *Program* – 1. To oversee the programs of the Church within the bounds of the district in cooperation with pastors and congregations, working with and through the district council on ministries where it exists.

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[18] *See* Judicial Council Decision 581.

2. To work cooperatively with the conference council on ministries or alternative structure and its staff in all program concerns of the Church; may serve as a member of the annual conference council on ministries.

3. To give leadership within the district in the quest for Christian unity and interreligious relationships as an extension of the episcopal office.

4. To establish long-range planning that is responsive to ecumenical and racially inclusive perspectives and to initiate new and vital forms of ministry.

5. To participate with the cabinet in submitting to the annual conference a report reflecting the state of the conference, with recommendations for greater effectiveness.

¶ 425. A district superintendent may take up to three consecutive months' leave from his or her normal superintendent responsibilities for purposes of reflection, study, and self-renewal once during his or her term as superintendent. The bishop and cabinet, in consultation with the committee on district superintendency, shall coordinate details pertaining to such leaves.

Section VII. Expressions of Superintendency

¶ 426. The offices of bishop and district superintendent are linked with each other in ways described elsewhere (¶ 403). The interdependence of the offices calls for a collegial style of leadership. However, both the office of bishop and that of district superintendent are embedded in their own contexts.

¶ 427. *Council of Bishops* – 1. Bishops, although elected by jurisdictional or central conferences, are elected general superintendents of the whole Church. As all ordained ministers are first elected into membership of an annual conference and subsequently appointed to pastoral charges, so bishops become through their election members first of the Council of Bishops before they are subsequently assigned to areas of service. By virtue of their election and consecration bishops are members of the Council of Bishops and are bound in special covenant with all other bishops. In keeping with this covenant, bishops fulfill their servant leadership and express their mutual accountability. The Council of Bishops is a faith community of mutual trust and concern responsible for the faith development and continuing well-being of its members.

2. The Council of Bishops is thus the collegial expression of episcopal leadership in the Church and through the Church into the world. The Church expects the council of bishops to speak to the Church and from the Church to the world and to give leadership in the quest for Christian unity and interreligious relationships.

3. In order to exercise meaningful leadership, the Council of bishops is to meet at stated intervals. The Council of bishops is charged with the oversight of the spiritual and temporal affairs of the whole church, to be executed in regularized consultation and cooperation with other councils and service agencies of the Church.

4. The Council of Bishops may assign one of its members to visit another episcopal area or Methodist-related church. When so assigned, the bishop shall be recognized as the accredited representative of the Council of Bishops, and when requested by the resident bishop or

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rescinded, amended, or superseded by action of subsequent sessions of the General Conference. All valid resolutions and positions of the general Conference of The United Methodist Church, beginning with those adopted by the 1968 Uniting Conference, shall be listed in each edition of the *Book of Resolutions.* There shall be a complete subject index to all valid resolutions of the General Conference of The United Methodist Church in each edition of the *Book of Resolutions.* Resolutions shall be considered official expressions of The United Methodist Church for twelve years following their adoption, after which time they shall be deemed to have expired unless readopted. Those that have expired shall not be printed in subsequent editions of the *Book of Resolutions.*

b) The General Council on Ministries and the program boards and agencies shall review all valid resolutions and recommend to the General Conference the removal of time-dated material.

3. The Advance Edition of the *Daily Christian Advocate* and the *Daily Christian Advocate.*

4. All original documents of a General Conference shall be filed with the General Commission on archives and History.

Section II. The Jurisdictional Conference

¶ 511. 1. There shall be an **Interjurisdictional Committee on Episcopacy** elected by the General

Conference consisting of the persons nominated by their annual conference delegations to serve on the several jurisdictional committees on episcopacy.[5] The committee shall meet not later than the fifth day of the conference session and at the time and place set for their convening by the president of the Council of Bishops and shall elect from their number a chairperson, vice chairperson, and secretary. The function of this joint committee shall be to discuss the possibility of transfers of bishops across jurisdictional lines at the forthcoming jurisdictional conferences for residential and presidential responsibilities in the ensuring quadrennium. It shall elect an executive committee consisting of the officers named above and two clergy and two laypersons from the nominees to each jurisdictional committee, elected by that committee to conduct consultations with bishops and others interested in possible episcopal transfers. The executive committee shall be responsible to the interjurisdictional committee.

2. A bishop may be transferred across jurisdictional liens only when that bishop has consented to such transfer and has served at least one quadrennium in or under assignment by the jurisdiction in which the bishop was elected. Such a transfer shall be concluded when the committee on episopacy of each jurisdiction involved has approved the transfer(s) by a majority vote of those present and voting, insofar as the transfer(s) affects those jurisdictions. (*See* ¶ 47, Article V.)[6]

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[5] *See* Judicial Council Decision 472.

[6] *See* Judicial Council Decision 745.

3. The Interjurisdictional Committee on Episcopacy shall be recognized as the official body through which cross-jurisdictional transfers shall be arranged. Should a bishop request transfer, the bishop has the option to identify the receiving jurisdiction. A jurisdiction may request that a specific bishop be transferred or may indicate a willingness to accept a bishop transferring from another jurisdiction. Request for transfer from either a bishop or jurisdictional committees on episcopacy shall be received by the Interjurisdictional Committee on Episopacy by April 1 of the year preceding the year of jurisdictional conferences. The Interjurisdictional Committee on Episocopacy will arrange consultation between bishop(s) requesting transfer and the appropriate jurisdictional committee(s) on episcopacy by January 1 of the year of jurisdictional conference(s). Once the jurisdictional committee(s) on episcopacy has taken action, jurisdictional conference secretaries shall inform the Interjurisdictional Committee on Episcopacy not later than August 1 following jurisdictional conferences.[7]

4. The Interjurisdictional Committee on Episcopacy will report to each General Conference the action taken during the previous quadrennium.

¶ 512. All jurisdictional conferences shall have the same status and the same privileges of action within the limits fixed by the Constitution.

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[7] *See* Judicial Council Decision 745.

¶ 513. The membership of each jurisdictional conference shall consist of an equal number of clergy and lay delegates elected by the annual conferences as provided in the *Discipline.* Consideration shall be given to electing an inclusive delegation (¶¶ 103, 117). The number of delegates to which an annual conference is entitled shall be twice the number of its General Conference delegates.

¶ 514. The clergy and lay delegates and reserves to the jurisdictional conferences shall be elected by ballot in accordance with the provisions of the Constitution.

THE CONFERENCES

¶ 515. The clergy and lay delegates shall deliberate in one body.

¶ 516. Each jurisdictional conference shall meet within the period prescribed by the Constitution at such time and place as shall have been determined by the preceding jurisdictional conference or by its properly constituted committee.

¶ 517. The jurisdictional conference shall adopt its own procedure, rules, and plan of organization. It shall take a majority of the whole number of delegates elected to make a quorum for the transaction of business; however, a smaller number may take a recess or adjourn from day to day and at the final session may approve the journal, order the record of the roll call, and adjourn *sine die*.

¶ 518. The jurisdictional conference shall provide for the expenses of its sessions.

¶ 519. 1. The jurisdictional conference may order a special session in such manner as it shall determine.

2. The College of Bishops of a jurisdiction by a two-thirds vote shall have authority to call a special session of the jurisdictional conference when necessary; *provided*, however, that if an episcopal area is left vacant by reason of death, retirement, or other cause within twenty-four months of the close of the preceding jurisdictional conference, the College of Bishops may by majority vote convene within three months, after giving not less than thirty days' notice, a special session of the jurisdictional conference for the purpose of electing and consecrating a bishop and of considering any other matters specified in the call; and *provided* further, that in such case the standing committee on episcopacy may recommend to the conference reassignments of one or more of the previously elected bishops.

3. The delegates to a special session of the jurisdictional conference shall be the delegates last elected by each annual conference.

4. A called session of the jurisdictional conference cannot transact any other business than that indicated in the call.

¶ 520. The jurisdictional conference shall be presided over by the bishops of the jurisdiction or a bishop of another jurisdiction or of a central conference. In case no bishop of the jurisdiction is present, the conference may elect a president from the clergy delegates.

¶ 521. Bishops elected by or administering in a jurisdictional conference shall be amenable for their conduct to their jurisdictional conference. Any bishop shall have the right of appeal to the Judicial Council.

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the jurisdiction concerned (*see* ¶ 712) if the vacancy is among members chosen to represent a jurisdiction, or, in the event of a vacancy among the episcopal, central conference, or at-large members, on nomination of the Council of Bishops.

The provisions of §§ 1*a* and 1*b* related to the number of members shall become effective in relation to members nominated and elected for service beginning in the year 2000. During the 1996-2000 quadrennium, vacancies occurring between sessions of the General Conference in the at-large membership shall not be filled unless the vacancy results in there being fewer than six at-large members. All other provisions of the paragraph shall take effect immediately upon adjournment of the 1996 General Conference.

2. *Meetings* – The council shall meet annually and at such other times as are necessary on call of the president or on written request of one fifth of the members. Twenty-two voting members shall constitute a quorum.

3. *Officers* – The officers of the council shall be a president, a vice president, a recording secretary, and a general secretary, who shall also be the treasurer of the council, all of whom shall be elected by the council (*see* § 5). They shall serve until the adjournment of the next succeeding quadrennial session of the General Conference after their election and until their successors are duly elected and qualified. The president, vice president, and recording secretary shall be elected from the membership of the council. The general secretary shall sit with the council and its executive committee at all sessions and

shall have the right to the floor without he privilege of voting.

4. *Committees – a) Executive Committee* – There shall be an executive committee of the council, consisting of the episcopal members, the officers of the council, chairpersons of the committees on services as defined in the council bylaws, the chairperson of the Committee on Council Operations, and up to three members at large to assure that, in addition to the episcopal members, there is at least one member from each jurisdiction and there is racial and ethnic participation. The executive committee shall meet on call of the president or of a majority of the membership and shall act for the council and exercise its powers in the interim between the meetings of the council, but it shall not take any action contrary to or in conflict with any action or policy of the council. A copy of the minutes of each meeting of the executive committee shall be sent from the central office to each member of the council as soon after the meeting as practicable.

b) Committee on Audit and Review – The executive committee of the council shall appoint a **Committee on Audit and Review**, no members of which shall be officers or members of the executive committee of the council, and at least half of whom shall not be members of the council, whose duty it shall be to review audits of all treasuries receiving general Church funds (*see* ¶ 810.2), including the funds of the council, and related policies with financial implications. Not included are the audits of the General Board of Pension and Health Benefits and The United Methodist Publishing House. In any matter of possible or potential financial impropriety reported to the committee by the auditors, the committee chair shall immediately inform the president and general secretary of the General

Council on Finance and Administration and the president and general secretary of the applicable agency. The committee shall report its findings to the annual meeting of the council.

c) Committee on Official Forms and Records – The council shall maintain and supervise under the direction of its general secretary a **Committee on Official Forms and Records**, which shall have the duty of preparing and editing all official statistical forms, record forms, and record books for use in the Church. The committee shall consist of one bishop elected by the Council of Bishops and nine persons elected by the General Council on Finance and Administration, as follows: one member of the council from each jurisdiction, one conference secretary, one conference treasurer, one conference statistician, and one district superintendent. The following persons shall be consultants to this committee ex officio, without vote: a staff representative of the council, the director of the Department of Statistics, a staff representative of the General Council on Ministries, a representative of The United Methodist Publishing House, and representatives of other general agencies when their programs are directly involved. All official record forms, record books, and certificates designed by the committee for use in The United Methodist Church and available for sale shall be printed and published through The United Methodist Publishing House.

d) Committee on Personnel Policies and Practices – The council shall organize a committee consisting of three representatives from the General Council on Finance and Administration, one of whom shall serve as chairperson, two representatives from the General Council on Ministries, and one representative of each of the following

agencies: the General Board of Church and Society, the General Board of Discipleship, the General Board of Global Ministries, the General Board of Higher Education and Ministry, the General Commission on Archives and History, the General Commission on Christian Unity and Interreligious Concerns, the General Commission on Communication, the General Commission on Religion and Race, the General Commission on the Status and Role of Women, and the General Commission on United Methodist Men. Each of the aforementioned representatives shall be selected by the council, board, or commission represented from its membership. The committee shall have duties and responsibilities as defined in ¶ 807.9b.

e) Committee on Legal Responsibilities – The council shall organize a committee composed of six persons, three of whom shall be members of the council. The committee shall be amenable to the council and shall make recommendations to the council regarding the fulfillment of the responsibilities defined in ¶ 807.4.

f) Other Committees – The council shall elect or appoint such other committees and task forces as needed for the performance of its duties.

5. *Staff* – The council shall elect a general secretary as provided in § 3 above. On nomination of the general secretary, the council may elect associate general secretaries, who shall work under the direction of the general secretary. The general secretary shall be the chief administrative officer of the council.

¶ 806. *Fiscal Responsibilities* – All monies contributed by a local church to the World Service Fund, including World Service Special Gifts and Advance Special Gifts, the General Administration Fund, the Episcopal Fund, the

Interdenominational Cooperation Fund, the Ministerial Education Fund, the Black College Fund, the Missional Priority Fund, the Temporary General Aid Fund, the World Communion Fund, the Human Relations Day Fund, the United Methodist Student Day Fund, the One Great Hour of Sharing Fund, the Youth Service Fund, the World Order Sunday Fund, Peace with Justice Sunday Fund, Native American Awareness Sunday Fund, and such other funds as may have been authorized by the General Conference shall be held in trust by the council and distributed only in support of the ministries of the respective funds. The council shall be accountable to The United Methodist Church through the General Conference in all matters relating to the receiving, disbursing, and reporting of such funds, and agencies receiving such funds shall be fiscally accountable to the council. In the exercise of its fiscal accountability role, the council shall have the authority and responsibility to perform the following functions:

1. It shall submit to each quadrennial session of the General Conference, for its action and determination, budgets of expense for its own operation, the World Service Fund, the General Administration Fund, the Episcopal Fund, the Interdenominational Cooperation Fund, the Ministerial Education Fund, the World Communion Offering, the One Great Hour of Sharing Fund, the Temporary General Aid Fund, the Black College Fund, the Human Relations Day Fund, the United Methodist Student Day Fund, the World Order Sunday Fund, Peace with Justice Sunday Fund, Native American Awareness Sunday Fund, and such other general funds as the General

Conference may establish. It shall also make recommendations regarding all other funding considerations to come before General Conference.

a) The council shall make recommendations to the General Conference as to the amount and distribution of all funds provided for in § 1 above.

b) In the case of the World Service Fund, the General Council on Finance and Administration and the General Council on Ministries shall proceed in the following manner in developing budget recommendations as they relate to allocations to the general program agencies of the Church:

(1) The General Council on Ministries shall, in consultation with the General Council on Finance and Administration and the general program agencies, develop recommendations to the General Council on Finance and Administration on needs of the general program agencies for the programs, missional priorities, and special programs.

(2) The General Council on Finance and Administration shall then establish and communicate to the General Council on Ministries the total sum proposed for distribution from the World Service Fund among the general program agencies.

(3) The General Council on Ministries, after reviewing both the program priorities and the total funds available to the general program agencies, shall recommend to the General Council on Finance and Administration the amount of the annual World Service allocation to each of those agencies, within the total sum proposed by the

General Council on Finance and Administration for distribution among such agencies.

(4) Only when the General Council on Finance and Administration and the General Council on Ministries agree on the allocations to the several general program agencies shall these allocations be included in the World Service budget to be recommended to the General Conference by the General Council on Finance and Administration.

(5) The General Council on Finance and Administration shall establish the total sum to be recommended to the General Conference for the annual budget of the World Service Fund.

(6) Before the beginning of each year, the General Council on Finance and Administration shall determine and communicate to the General Council on Ministries the sum available at that time from World Service contingency funds to meet requests for additional funding from the general program agencies. The General Council on Ministries shall be authorized to approve allocations to the general program agencies for additional program funding up to the limit so established. No money shall be allocated by the General Council on Ministries from this source for general administrative costs, fixed charges, or capital outlay without approval by the General Council on Finance and Administration.

(7) The General Council on Ministries shall receive from the General Council on Finance and Administration copies of the proposed annual budgets of the general program agencies, in order that it may review such budgets in relation to the program proposals made by those agencies in their quadrennial budget requests.

c) It shall recommend the formulas by which all apportionments to the annual conferences shall be determined, subject to the approval of the General Conference.

d) The expenses of the council, including the cost of all its operations, shall be a first claim against all general funds received and disbursed by the council. The charges against the several funds or beneficiary agencies, except for the charge against the General Administration Fund, shall be in proportion to the funds' receipts. On recommendation of the council, the General Conference shall determine the amount of the council's expenses to be charged to the General Administration Fund.

2. It shall receive and disburse in accordance with budgets approved by the General Conference all funds raised throughout the Church for:

a) the World Service Fund, including World Service Special Gifts and Advance Special Gifts;

b) the General Administration Fund;

c) the Episcopal Fund;

d) the Interdenominational Cooperation Fund;

e) the Ministerial Education Fund;

f) the Black College Fund;

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Chapter Seven

JUDICIAL ADMINISTRATION

Section I. The Judicial Council

¶ 2601. *Duties and Responsibilities of the Judicial Council* – The Judicial Council is the highest judicial body in The United Methodist Church. The Judicial Council shall have authority as specified in the Constitution, ¶¶ 53-55, and in ¶¶ 2609-2622.

¶ 2602. *Members* – The **Judicial Council** shall be composed of nine (9) members and should reflect the racial, ethnic, and gender diversity of The United Methodist Church. In the year 2000 and each sixteen (16) years thereafter, there shall be elected three (3) laypersons and two (2) ordained ministers other than bishops. In 1992 and each sixteen (16) years thereafter, there shall be elected three (3) ordained ministers other than bishops and two (2) laypersons. In 1996 and each eight (8) years thereafter, there shall be elected two (2) ordained ministers other than bishops and two (2) laypersons. They shall be members of The United Methodist Church. Elections shall be held at each session of the General Conference for only the number of members whose terms expire at such session. A member's term of office shall be eight (8) years; *provided*, however, that a member of the council whose seventieth (70) birthday precedes the first day of the regular session of a General Conference shall be released at the close of that General Conference from membership or responsibility in the council, regardless of the date of expiration of office.

Members of the council shall be nominated and elected in the manner following: At each quadrennial session of the General Conference, the Council of Bishops

shall nominate by majority vote three (3) times the number of ordained ministers and laypersons to be elected at such session of the General Conference. The number to be elected shall correspond to the number of members whose terms expire at the conclusion of such session. Each of the jurisdictions and the central conferences as a group shall be represented by at least one (1) nominee, but it shall not be a requirement that each of the jurisdictions or the central conferences as a group be represented by an elected member. At the same daily session at which the above nominations are announced, nominations of both ministers and laypersons may be made from the floor, but at no other time. The names of all nominees, identified with the conference to which each belongs, and a biographical sketch that does not exceed one hundred words shall be published by the *Daily Christian Advocate* at least forty-eight (48) hours prior to the time of election, which shall be set by action of the General Conference at the session at which the nominations are made; and from these nominations the General Conference shall elect without discussion, by ballot and majority vote, the necessary number of ministerial and lay members.[1] This paragraph shall become effective immediately upon passage by the General Conference.

¶ **2603.** *Alternates* – There shall be six (6) alternates for the clergy members and six (6) alternates for the lay members, and their qualifications shall be the same as for membership on the Judicial Council. The term of the alternates shall be for four (4) years.

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[1] *See* Judicial Council Decision 540.

The alternates shall be elected in the following manner: From the clergy and lay nominees remaining on the ballot after the election of the necessary number of members of the Judicial Council to be elected at sessions of the General Conference, the General Conference shall by separate ballot, without discussion and by majority vote, elect the number of clergy and lay alternates to be chosen at such session of the General Conference. An election shall be held at each session of the General Conference for only the number of clergy and lay alternates whose terms expire at such session of the General Conference, or to fill vacancies.

This paragraph shall become effective immediately upon passage by the General Conference.

¶ 2604. *Vacancies* – 1. If a vacancy in the membership of the Judicial Council occurs at the conclusion of a General Conference because of a required retirement of a member because of age, such vacancy shall be filled by General Conference election of an ordained minister to fill a clergy vacancy and a layperson to fill a lay vacancy, such election to be held in the manner hereinbefore provided in this section; and the person so elected shall hold office during the unexpired term of the member whom the newly elected person succeeds.

2. If a vacancy in the membership of the council occurs during the interim between sessions of the General Conference, a clergy vacancy shall be filled by the first-elected clergy alternate and a lay vacancy by the first-elected lay alternate. The alternate filling such vacancy shall hold office as a member of the Judicial Council for the unexpired term of the member whom the alternate succeeds. In the event of any vacancy, it shall be the duty

of the president and secretary of the council to notify the alternate entitled to fill it.

3. In the event of an absence of one or more members of the council during a session of the Judicial Council, such temporary vacancy among the clergy members may be filed for that session or the remainder thereof by the clergy alternates in order of election who can be present, and such temporary vacancy among the lay members by the lay alternates in order of election who can be present; but inability or failure to fill a vacancy does not affect the validity of any action of the council so long as a quorum is present.

¶ **2605.** The term of office of the members of the council and of the alternates shall expire upon the adjournment of the General Conference at which their successors are elected.

¶ **2606.** Members of the council shall be ineligible for election as delegates to the General, jurisdictional, or central conference or to serve in any General, jurisdictional, or central conference board or agency.[1]

¶ **2607.** The members of the Judicial Council will not permit discussion with them on matters pending before them or that may be referred to them for determination, save and except before the Judicial Council in session. Questions of procedure may be raised with the presiding officer or secretary of the Judicial Council. While strictly observing the intent of the preceding paragraph, a

[1] *See* Judicial Council Decision 196; and Decision 3, Interim Judicial Council.

member of the council to whom a case has been assigned by the president may request that the secretary secure from persons and agencies concerned directly or indirectly with the case pertinent facts, briefs, and supplementary statements relating thereto. Copies of such facts, briefs, and statements shall be sent promptly by the secretary of the council to other members of the council as is deemed necessary.[3]

¶ 2608. 1. The Judicial Council shall provide its own method of organization and procedure, both with respect to hearings on appeals and petitions for declaratory decisions. All parties shall have the privilege of filing briefs and arguments and presenting evidence under such rules as the council may adopt from time to time; *provided* that at the time of filing, copies of such briefs are delivered to all parties of record.

2. The council shall meet at the time and place of the meeting of the General Conference and shall continue in session until the adjournment of that body, and at least one other time in each calendar year and at such other times as it may deem appropriate, at such places as it may select from time to time. Seven (7) members shall constitute a quorum. An affirmative vote of at least six (6) members of the council shall be necessary to declare any act of the General Conference unconstitutional. On other matters, a majority vote of the entire council shall be sufficient. The council may decline to entertain an appeal or a petition for a declaratory decision in any instance in

[3] *See* Judicial Council Decision 763.

which it determines that it does not have jurisdiction to decide the matter.

¶ 2609. 1. The Judicial Council shall determine the constitutionality of any act of the General Conference upon an appeal by a majority of the Council of Bishops or one fifth of the members of the General Conference.

2. The Judicial Council shall have jurisdiction to determine the constitutionality of any proposed legislation when such declaratory decision is requested by the General Conference or by the Council of Bishops.

¶ 2610. The Judicial Council shall determine the constitutionality of any act of a jurisdictional or central conference upon an appeal by a majority of the bishops of that jurisdiction or central conference or upon an appeal by one fifth (⅕) of the members of that jurisdictional or central conference.[4]

¶ 2611. The Judicial Council shall hear and determine the legality of any action taken by any body created or authorized by the General Conference or any body created or authorized by a jurisdictional or central conference, upon appeal by one third (⅓) of the members thereof or upon request of the Council of Bishops or a majority of the bishops of the jurisdictional or central conference wherein the action was taken.

¶ 2612. The Judicial Council shall hear and determine the legality of any action taken by any body created or authorized by a General Conference or any body created

[4] *See* Judicial Council Decision 338.

or authorized by the jurisdictional or central conference on a matter affecting an annual or a provisional annual conference, upon appeal by two thirds (⅔) of the members of the annual or provisional annual conference present and voting.[5]

¶ 2613. The Judicial Council shall pass upon and affirm, modify, or reverse the decisions of law made by bishops in central, district, annual, or jurisdictional conferences upon questions of law submitted to them in writing in the regular business of a session; and in order to facilitate such review, each bishop shall report annually in writing to the Judicial Council on forms provided by the council all the bishop's decisions of law. No such episcopal decision shall be authoritative, except in the case pending, until it has been passed upon by the Judicial Council, but thereafter it shall become the law of the Church to the extent that it is affirmed by the council. Normally, the bishop shall rule before the close of the annual conference session during which the question was submitted, but in no case later than thirty (30) days after the close of the session. The annual conference secretary shall enter in the annual conference journal an exact statement of the question submitted and the ruling of the bishop.[6]

¶ 2614. The Judicial Council shall hear and determine any appeal from a bishop's decision on a question of law made in a central, district, annual, or jurisdictional

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[5] *See* Judicial Council Decision 463.

[6] *See* Judicial Council Decisions 747, 762, 763.

conference when said appeal has been made by one fifth (1/5) of that conference present and voting.[7]

¶ **2615.** The Judicial Council shall have power to review an opinion or decision of a committee on appeals of a jurisdictional or central conference if it should appear that such opinion or decision is at variance with the *Book of Discipline*, a prior decision of the Judicial Council, or an opinion or decision of a committee on appeals of another jurisdictional or central conference on a question of Church law. In the event the committee on appeals decision appears to be at variance with the decision of another committee on appeals, then the following procedure should be followed:

1. Any party to the opinion or decision may appeal the case to the Judicial Council on the ground of such conflict of decisions; or

2. The committee on appeals rendering the last of such opinions or decisions may certify the case to, and file it with, the Judicial Council on the ground of such conflict of decisions; or

3. The attention of the president of the Judicial Council being directed to such conflict or alleged conflict of decisions, the president may issue an order directing the secretaries of the committees on appeals involved to certify a copy of a sufficient portion of the record to disclose the nature of the case and the entire opinion and decision of the committee on appeals in each case to the Judicial Council for its consideration at its next meeting.

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[7] *See* Judicial Council Decision 153.

The Judicial Council shall hear and determine the question of Church law involved but shall not pass upon the facts in either case further than is necessary to decide the question of Church law involved. After deciding the question of Church law, the Judicial Council shall cause its decision to be certified to each of the committees on appeals involved, and such committees on appeals shall take such action, if any, as may be necessary under the law as determined by the Judicial Council.

4. All opinions and decisions of jurisdictional and central conference committees on appeal shall be sent to the secretary of the Judicial Council within thirty (30) days after a decision. These decisions shall be made available to those who are involved in trials when needed and for those preparing for trial, but not otherwise.

¶ 2616. *Declaratory Decisions* – 1. The Judicial Council, on petition as hereinafter provided, shall have jurisdiction to make a ruling in the nature of a declaratory decision as to the constitutionality, meaning, application, or effect of the *Discipline* or any portion thereof or of any act or legislation of a General Conference; and the decision of the Judicial Council thereon shall be as binding and effectual as a decision made by it on appeal.[8]

2. The following bodies in The United Methodist Church are hereby authorized to make such petitions to the Judicial Council for declaratory decisions: *(a)* the General Conference; *(b)* the Council of Bishops; *(c)* any body created or authorized by the General Conference on

[8] *See* Judicial Council Decision 106, 172, 301, 434, 443, 454, 463, 474, 566.

matters relating to or affecting the work of such body; *(d)* a majority of the bishops assigned to any jurisdiction on matters relating to or affecting jurisdictions or the work therein; *(e)* a majority of the bishops assigned to any central conference on matters relating to or affecting the central conferences or the work therein; *(f)* any jurisdictional conference on matters relating to or affecting jurisdictions or jurisdictional conferences or the work therein; *(g)* any body created or authorized by the jurisdictional conference on matters relating to or affecting the work of such body; *(h)* any central conference on matters relating to or affecting central conferences or the work therein; *(i)* any body authorized or created by a central conference on matters relating to or affecting the work of such body; and *(j)* any annual conference on matters relating to annual conferences or the work therein.[9]

3. When a declaratory decision is sought, all persons or bodies who have or claim any interest that would be affected by the declaration shall be parties to the proceeding, and the petition shall name such parties. Except for requests filed during the General Conference, any party requesting a declaratory decision shall file a brief statement of the question involved with the secretary of the Judicial Council. Within twenty (20) days of receiving such request, the secretary of the Judicial Council shall submit a brief statement of the question involved to *The Interpreter* or its successor for publication – without cost in the next edition. The Judicial Council shall not hear and determine any such matter until thirty (30) days after

[9] *See* Judicial Council Decisions 29, 212, 255, 301, 309, 382, 452, 535.

such publication. If the president of the council determines that other parties not named by the petition would be affected by such a decision, such additional parties shall also be added, and the petitioner or petitioners, upon direction of the secretary of the Judicial Council, shall then be required to serve all parties so joined with a copy of the petition within fifteen (15) days after such direction by the secretary of the Judicial Council. In like manner, any interested party may, on the party's own motion, intervene and answer, plead, or interplead.[10]

¶ 2617. When the Judicial Council shall have declared unconstitutional any provision of the *Book of Discipline*, the secretary of the Judicial Council shall notify the chairperson of the Committee on Correlation and Editorial Revision which phrase or sentence was found to violate the Constitution so that it will not appear in the next edition.

¶ 2618. The decisions of the Judicial Council of The Methodist Church heretofore issued shall have the same authority in The United Methodist Church as they had in The Methodist Church, persuasive as precedents, except where their basis has been changed by the terms of the Plan of Union or other revisions of Church law.

¶ 2619. Prior to the decision of a case in question, members of the Judicial Council shall not discuss with any party matters of substance pending in the judicial process unless all parties are privy to the discussion.

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[10] *See* Judicial Council Decision 437.

The Judicial Council shall in all cases in which a decision or memorandum is issued set forth the specific provisions of the Constitution or the *Discipline* that provide the basis of the decision and the rationale that led to the conclusion.

This paragraph shall become effective at the conclusion of the 1996 General Conference.

¶ 2620. The Judicial Council shall have other duties and powers as may be conferred upon it by the General Conference.

¶ 2621. All decisions of the Judicial Council shall be final. However, when the Judicial Council shall declare any act of the General Conference then in session unconstitutional, that decision shall be reported to that General Conference immediately. This legislation shall take effect immediately upon passage by the General Conference.

¶ 2622. The decisions of the Judicial Council on questions of Church law, with a summary of the facts of the opinion, shall be filed with the secretary of the General Conference and with the bishop, chancellor, and secretary of each annual conference. Publication of decisions shall be as follows:

1. Within ninety (90) days following each session of the Judicial Council, the digest of decisions of the Judicial Council shall be published in *The Interpreter* or its successor publication.

2. The decisions of the Judicial Council rendered during each year shall be published in the General Minutes.

Section II. Investigations, Trials, and Appeals

¶¶ 2623-2629 shall become effective at the conclusion of the 1996 General Conference, except for matters that have already proceeded to the Joint Review Committee.

¶ 2623. *Fair Process in Judicial Proceedings* – The following procedures are presented for the protection of the rights of individuals guaranteed under Section III, Article IV of our Constitution and for the protection of the Church. The presumption of innocence shall be maintained until the conclusion of the trial process. At each step in the proceedings listed in ¶¶ 2623 through 2627, efforts for resolution shall continue, so long as these efforts are not used to hinder fair process.[11] The judicial proceedings process and the rights set forth in this paragraph commence upon referral of a matter as a judicial complaint from counsel for the Church to the committee on investigation. Special attention should be given to ensuring racial, ethnic, and gender diversity of boards, committees, and courts and the timely disposition of all matters.[12]

1. In any judicial proceeding, the respondent (the person to whom the procedure is being applied) shall have a right to be heard before any final action is taken.

2. Notice of any judicial process hearing shall advise the respondent of the reason for the proposed procedures, with sufficient detail to allow the respondent to prepare a response. Notice shall be given not less than twenty (20) days prior to the hearing.

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[11] *See* Judicial Council Decisions 557, 723, 724.

[12] *See* Judicial Council Decision 695.

3. The respondent shall have a right to be accompanied by another person to any judicial process hearing to which he or she is subject, in accordance with the appropriate disciplinary provisions (*see* ¶ 2626.6*b*). The person accompanying the respondent shall have the right of advocacy.

4. In any judicial proceeding, under no circumstances shall one party or counsel, in the absence of the other party or counsel, discuss substantive matters with members of the pending hearing, trial, or appellate body while the case is pending. Questions of procedure may be raised with the presiding officer or secretary of the hearing or appellate body.

5. A person shall not be subjected to a judicial process a second time for the same alleged occurrence(s).[13]

6. The respondent shall have access to all records relied upon in the determination of the outcome of the committee on investigation, trial court, or appeal committee or body.[14]

7. In the event that a clergyperson fails to appear for supervisory interviews, refuses mail, refuses to communicate personally with the bishop or district superintendent, or otherwise fails to respond to supervisory requests or requests from official administrative or judicial committees, such actions or inactions shall not be used as an excuse to avoid or delay any Church processes, and such

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[13] *See* Judicial Council Decisions 697, 777, 784.

[14] *See* Judicial Council Decisions 691, 765.

processes may continue without the participation of such individual.

8. As a part of the judicial process, the bishop and cabinet, in consultation with the presiding officer of the pending hearing, trial, or appellate body then sitting, shall provide for healing within the congregation if there has been significant disruption to congregational life by the judicial matter. This may include a mediation process for unresolved conflicts, support for victims, and reconciliation for all who are involved. This process may also include the sharing of information by the bishop or a cabinet member about the nature of the complaint without disclosing alleged facts underlying the complaint that might compromise the judicial process.

¶ 2624. *Chargeable Offenses* – 1. A bishop, clergy member of an annual conference (¶ 364), local pastor, clergy on honorable or administrative location, or diaconal minister may choose a trial when charged with one or more of the following offenses: *(a)* immorality; *(b)* practices declared by The United Methodist Church to be incompatible with Christian teachings;[15] *(c)* crime; *(d)* failure to perform the work of the ministry; *(e)* disobedience to the Order and Discipline of The United Methodist Church; *(f)* dissemination of doctrines contrary to the established standards of doctrine of the Church; *(g)* relationships and/or behavior that undermines the ministry of another

[15] *See* Judicial Council Decision 702.

pastor;[16] *(h)* racial harassment; *(i)* child abuse; *(j)* sexual harassment, sexual misconduct, or sexual abuse.[17]

2. A bishop, clergy member of an annual conference, or diaconal minister may be brought to trial when the appropriate body recommends involuntary termination.[18]

3. A lay member of a local church may be charged with the following offenses and, if so, may choose a trial: *(a)* immorality; *(b)* crime; *(c)* disobedience to the Order and Discipline of The United Methodist Church; *(d)* dissemination of doctrines contrary to the established standards of doctrine of the Church; *(e)* racial harassment; *(f)* sexual abuse or harassment.

¶ 2625. *Charges* – Charges against bishops, clergy members, clergy on honorable or administrative location, local pastors, diaconal ministers, and lay members shall be subject to the following guidelines:

1. A charge shall not allege more than one of the offenses set forth in ¶ 2624. Each charge must be written, with specifications containing facts such as date, place, and specific events alleged to have occurred. More than one charge against the same person may be presented and tried at the same time. A vote on each charge and each specification shall be taken separately.

2. Amendments may be made to a bill of charges at the discretion of the presiding officer; *provided* that they

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[16] *See* Judicial Council Decision 702.

[17] *See* Judicial Council Decisions 736, 768.

[18] *See* Judicial Council Decision 767.

do not change the nature of the charges and specifications and do not introduce new matter of which the respondent has not had due notice. When an amendment or amendments to a bill of charges is or are denied by the presiding officer, it or they shall not be introduced in the form of testimony in the trial court. Charges or specifications previously considered and dropped by the committee on investigation shall not be introduced in the trial court in the form of evidence or otherwise.

¶ 2626. *Committee on Investigation* – 1. *General* – The investigation procedure is the first step in the judicial process. The appropriate committee on investigation (¶ 2626.2*c*, .3*c*, .4*c*) shall conduct the investigation, and if in the judgment of the required number of committee members there is reasonable ground for such charges, they shall sign and certify the charges as proper for a trial (the general offense or offenses under ¶ 2624) and the specifications (*e.g.*, the date, place, and specifics of the events alleged to have taken place). They shall then forward a copy to the person charged, the person making the complaint, and the appropriate Church officials (¶ 2626.2*c*, .3*c*, and .4*c*).

2. *Investigation of a Bishop – a)* There shall be a committee on investigation elected by each jurisdictional or central conference on nomination of the College of Bishops in consultation with the jurisdictional episcopacy committee. The committee shall consist of seven (7) elders in full connection (with not more than elder from each annual conference, if possible), two (2) lay observers, and six (6) alternate members, five (5) of whom shall be elders in full connection (with not more than one elder from each annual conference, if possible) and one (1) of whom shall be a layperson. The committee should reflect racial, ethnic,

and gender diversity. The committee shall elect a chairperson and organize at the jurisdictional or central conference. Seven (7) elders or alternates seated as members of the committee shall constitute a quorum, and the vote to adopt any charge or specification shall require five (5) votes.

b) If a written complaint is made against a bishop for any of the offenses in ¶ 2624, the counsel for the Church, as appointed under ¶ 413.3*a*, shall forward the complaint and all documentary evidence under consideration to the chairperson of the committee on investigation, the person making the complaint, and the bishop being charged. The counsel for the Church shall be entitled to choose one assistant counsel without voice who may be an attorney. The bishop shall be given an opportunity to submit to the committee on investigation a written response to the complaint within thirty (30) days of receipt of the complaint. The chairperson shall convene the committee on investigation within sixty (60) days of receiving the complaint.

c) Any charges and specifications adopted shall be sent to the bishop charged, to the secretary of the jurisdictional or central conference, to the president and secretary of the College of Bishops, and to the chairperson of the jurisdictional committee on the episcopacy.

d) If five (5) or more members of the committee on investigation so recommend, the jurisdictional committee on the episcopacy may suspend the bishop pending the outcome of the judicial process.

e) For the purpose of this paragraph, the United Methodist bishops of the central conferences shall constitute one College of Bishops.

3. *Investigation of a Clergy Member of an Annual Conference, Clergy on Honorable or Administrative Location, or a Local Pastor –a)* There shall be a committee on investigation consisting of seven (7) elders in full connection, two (2) lay observers, and six (6) alternate members, five (5) of whom shall be elders in full connection and one (1) of whom shall be a layperson. The committee shall be nominated by the presiding bishop in consultation with the board of ordained ministry and elected quadrennially by the annual conference. The committee should reflect racial, ethnic, and gender diversity. The committee on investigation shall elect a chair and organize at the annual conference. None of the members or alternates shall be members of the board of ordained ministry, the cabinet or immediate family members of the above. Should a member of the committee on investigation have been a party to any of the prior proceedings in a case that finally comes before the committee, he or she shall be disqualified from sitting on the committee during its consideration of that case, and his or her place shall be taken by an alternate member. Seven (7) members or alternates seated as members of the committee shall constitute a quorum, and a vote to adopt any charge or specification shall require five (5) votes.

b) If a determination is made that a complaint is a judicial complaint against a clergyperson under the provisions of ¶ 358.1*d*(1), the bishop[19] shall appoint an elder in full connection as counsel for the Church. Counsel for the Church shall prepare, sign, and refer the complaint, with all relevant material, to the chairperson of the

[19] *See* Judicial Council Decision 685.

conference committee on investigation and represent the interests of the Church in pressing the claims of the person making the complaint in any proceedings before the committee. Counsel for the Church shall be entitled to choose one assistant counsel without voice who may be an attorney. The respondent shall be given an opportunity to submit to the committee on investigation a written response to the complaint within thirty (30) days of receipt of the complaint (cf. ¶¶ 358.1*d*[1] and 2625.1).[20] The chairperson of the conference committee on investigation shall have sixty (60) days to convene the committee on investigation after receiving the complaint.

c) Any charges and specifications adopted by the committee on investigation (¶ 2626.1) shall be sent by the chairperson within five (5) days to the respondent, the person making the complaint, the secretary of the annual conference, the counsel for the Church, and the presiding bishop.

d) If five (5) or more members of the committee on investigation so recommend, the bishop may suspend the person charged from all clergy responsibilities pending the outcome of the judicial process.[21] The person charged retains all rights and privileges as stated in ¶ 335.

e) If a determination is made that a complaint is not based on chargeable offenses, the committee on investigation may refer the complaint to the bishop for administrative or other action.

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[20] *See* Judicial Council Decision 557.

[21] *See* Judicial Council Decision 498.

4. *Investigation of a Diaconal Minister– a)* There shall be a committee on investigation consisting of not fewer than three (3) diaconal ministers or members of the Church who are not members of the board of ordained ministry, nominated by the presiding bishop and elected by the annual conference. Two (2) alternate members shall be elected. The committee should reflect racial, ethnic, and gender diversity. The committee on investigation shall elect a chair and organize at the annual conference. Three (3) members or alternates seated as members of the committee shall constitute a quorum, and a vote to adopt any charge or specification shall require two (2) votes.

b) When a conference does not have sufficient diaconal ministers to elect the required minimum committee and an investigation is needed, the bishop, in consultation with the College of Bishops, shall request members of diaconal committees on investigation from other conferences in the jurisdiction in sufficient number to provide the required minimum committee (¶ 2626.4*a*) for conducting the investigation.

c) If a written complaint is made against a diaconal minister for any of the offenses in ¶ 2624, the charged person's district superintendent shall within sixty (60) days of receiving such complaint convene the committee on investigation.

d) Any charges and specifications adopted (¶ 2625.1) shall be sent to the respondent within five (5) days, the secretary of the annual conference, the chairperson of the board of ordained ministry, the respondent's district superintendent, and the presiding bishop.

e) If at least two thirds (⅔) of the committee on investigation so recommend, the bishop may suspend the

person charged from all professional responsibilities pending the outcome of the judicial process.

5. *Investigation of a Lay Member of a Local Church – a)* If a complaint is made in compliance with ¶¶ 2624 and 2625, the pastor in charge or co-pastors (¶ 205.1) of the local church, in consultation with the district superintendent and the district lay leader, shall appoint a committee on investigation consisting of seven (7) lay members of the local church. The committee should reflect racial, ethnic, and gender diversity. When the pastor in charge is (or co-pastors are) bringing the charge, the district superintendent, in consultation with the district lay leader, shall appoint the committee on investigation. The member shall be given an opportunity to submit to the committee on investigation a written response to the complaint within thirty (30) days of a receipt of the complaint and the appointing of the committee and before consideration of the complaint by the committee. The district superintendent shall preside at all meetings of the committee, shall be given a copy of the complaint and any response, and shall have the right to be present and to speak at all meetings of the committee.

b) Any charges and specifications adopted by the committee shall be sent to the person charged, the recording secretary of the charge conference, the pastor(s), and the district superintendent.

c) If five (5) or more members of the committee so recommend, the pastor may suspend the charged layperson from exercising any Church office pending outcome of the judicial process.

6. *Investigation Procedures – a)* A copy of the complaint and documentary evidence under consideration

shall be sent to the respondent, the person making the complaint, and the bishop. All complaints against a clergyperson shall be submitted in writing and signed by the appropriate person (¶ 2626.2*c, .3c, .4c*). All complaints against a layperson under ¶ 2624.3 shall be submitted in writing, signed by the person(s) making the complaint, and delivered to the pastor in charge of the local church of which the respondent is a member, and a copy shall be sent to the respondent. The committee on investigation may have legal counsel present, who shall not be the conference chancellor, for the sole purpose of providing advice to the committee.

b) The parties may be represented by counsel, who shall not be an attorney, at an investigation. A respondent who is a bishop, a clergyperson, or a diaconal minister shall be entitled to select an elder in full connection to serve as respondent's counsel. A lay respondent shall be entitled to select a lay member or clergyperson to serve as respondent's counsel. A respondent shall be entitled to choose one assistant counsel without voice who may be an attorney. Basic procedural decisions shall be made in a preliminary meeting. During this meeting, the respondent and the respondent's counsel, the person making the complaint, and the counsel for the Church (in the case of a clergyperson or bishop respondent) shall have the right to argue procedural points before a decision is made by the chair. All advance procedural decisions and such unanticipated decisions as may come in the course of the meeting of the committee on investigation shall be rendered in writing so as to be available for consideration in all further possible stages of the case.

c) No complaint or charge shall be considered for any alleged occurrence that shall not have been committed

within six (6) years immediately preceding the filing of the initial complaint, except in the case of sexual or child abuse (¶ 358.1*d*[1]).[22] Time spent on leave of absence shall not be considered for any alleged occurrence that shall not have been committed within six (6) years. The introduction of any material relating to events happening before the six-year time period as evidence, as preface to evidence, or as build-up for evidence in the procedures of the committee on investigation or the trial proceedings shall be permitted when the presiding officer, after consultation with counsel for both parties, rules that such material is relevant and reliable.

d) If possible, the respondent and the person(s) bringing the initial complaint shall be brought face to face, but the inability to do this shall not invalidate an investigation. Notice of the hearings shall be given to all parties, and they shall be permitted to be present during testimony, but not during deliberations. There shall be no right of cross-examination by either the respondent or the person(s) bringing the original complaint.

e) The committee on investigation may call such persons as it deems necessary to establish whether or not there are reasonable grounds for formulating a charge or charges. The chairperson shall have the power, whenever it is appropriate in the committee's own discretion, to appoint a member(s) of the committee to interview any witness(es), provided that all parties may be present (without voice) and that three days notice of the time and place of such interview shall have been given to all parties.

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[22] *See* Judicial Council Decisions 691, 723.

The person(s) so appointed shall create a verbatim record of the interview and certify the record by signature for transmittal to the chairperson.

f) There shall be a verbatim record of all proceedings of the committee on investigation, except when the committee meets in executive session. The term *executive session* shall mean the committee meeting alone or with its legal counsel.

g) Proceedings in the investigation shall be informal. No oaths shall be taken. All procedural decisions shall be made by the chairperson.

¶ **2627.** *Trial Procedures* – 1. *General – a) Fundamental Principles* – (1) Church trials are to be regarded as an expedient of last resort.[23] Only after every reasonable effort has been made to correct any wrong and adjust any existing difficulty should steps be taken to institute a trial. No such trial as herein provided shall be construed to deprive the respondent or the Church of legal civil rights.

(2) All trials shall be conducted according to the *Book of Discipline* in a consistent Christian manner by a properly constituted court after due investigation.

(3) All appeals of any procedural or substantive matters that have occurred prior to referral of the charges to trial must be appealed to the presiding officer of the trial court before the convening of the trial court. Otherwise, the right to appeal on such matters is forfeited.

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[23] *See* Judicial Council Decisions 534, 700.

(4) The administration of oaths shall not be required. At the beginning of the trial, the presiding officer shall remind all parties of the duties and responsibilities of Church membership (¶ 219) and/or the ordained ministerial covenant (¶¶ 306.4*f* and 325).

b) Officers of the Trial Court – Officers shall consist of a presiding officer (¶ 2626.2*a*, .3*a*, .4*a*), who shall appoint a secretary and such other officers as deemed necessary. The presiding officer may have legal counsel, who shall not be the conference chancellor, present at the expense of the annual conference holding the trial for the sole purpose of advice to the presiding officer during the trial.

c) Convening of the Court – (1) The official charged with convening the court (*see* ¶ 2626.2*a*, .3*a*, and .4*a*) shall, within thirty (30) days after receiving a copy of the charges and specifications, appoint counsel for the Church.

(2) The convenor [sic] shall notify the respondent in writing to appear at a fixed time and place no less than twenty (20) days after service of such notice and within a reasonable time thereafter for selection of the members of the trial court. No person who was a member of the cabinet, board of ordained ministry, or committee on investigation who earlier considered the case now before the trial court shall be appointed counsel for the Church or serve as counsel for the respondent or any of the persons bringing complaints in a case.

(3) At the appointed time, in the presence of the respondent, counsel for the respondent, counsel for the Church, and the presiding officer, thirteen (13) persons shall be selected as a trial court out of a pool of thirty-five (35) or more persons selected according to ¶ 2626.2*a*, .3*a*, and

.4*a*. Special consideration should be given so that the pool includes persons representative of racial, ethnic, and gender diversity.

(4) No person shall serve as a member of the trial court who was a member of the cabinet, board of ordained ministry, or committee on investigation who considered the case in the process of coming before the trial court. The counsel for the Church and the respondent shall each have up to four (4) preemptory challenges and challenges for cause without limit. If by reason of challenges for cause being sustained the number is reduced to below thirteen (13), additional appropriate persons shall be nominated in like manner as was the original panel to take the places of the numbers challenged, who likewise shall be subject to challenge for cause. This method of procedure shall be followed until a trial court of thirteen (13) members and two (2) alternate members has been selected.

(5) The two (2) alternate members shall sit as observers of the trial and shall be seated as members of the trial court in the event one of the thirteen (13) is not able to continue.

(6) The members of the trial court, but not the alternate members, may, subject to the approval of the presiding officer of the trial, ask questions on matters on which evidence has been presented.

d) Time and Place of Trial – The official charged with convening the trial court shall also fix the time and place for the trial, which will immediately follow the convening of the trial court.

The respondent may request a change of venue. This shall be a written request to the presiding officers of the

court within then (10) days of receipt of notice to appear for trial. The presiding officer shall rule upon the request after hearing arguments by the respondent and the Church. If the motion is approved, the presiding officer shall name the annual conference outside the Episcopal area wherein the trial shall be held and shall notify the resident bishop of that conference, who shall convene the court. The cost of prosecution shall be borne by the conference where the case originated.

e) Notice – (1) All notices required or provided for in relationship to investigations, trials, and appeals shall be in writing, signed by or on behalf of the person or body giving or required to give such notice, and shall be addressed to the person or body to whom it is required to be given. Such notices shall be served by delivering a copy thereof to the party or chief officer of the body to whom it is addressed in person or sent by other delivery system to the last-known residence or address of such party. Proof of notice shall be provided and becomes a part of the record of the case.

(2) In all cases wherein it is provided that notice shall be given to a bishop or district superintendent and the charges are against that particular person, then such notice (in addition to being given to the accused) shall be given, in the case of a bishop, to another bishop within the same jurisdiction and, in the case of a district superintendent, to the bishop in charge.

f) Counsel – In all cases, a respondent shall be entitled to appear and to select and be represented by counsel, and elder of The United Methodist Church if the respondent is a bishop, a clergyperson, or a diaconal minister; and a lay or clergy member of The United

Methodist Church if the respondent is a lay member. A respondent shall be entitled to have counsel heard in oral or written argument or both. Counsel for the Church shall be an elder in full connection selected by the bishop to represent the interests of the Church in pressing the claims of the person making the complaint. In all cases of trial where counsel has not been chosen by the respondent, counsel shall be appointed by the presiding officer. The counsel for the Church and for the respondent each shall be entitled to choose one assistant counsel, who may be an attorney, without voice.

g) Witnesses – Notice to appear shall be given to such witnesses as either party may name and shall be issued in the name of the Church and be signed by the presiding officer of the trial court. It shall be the duty of all clergy and lay members of The United Methodist Church to appear and testify when summoned. Refusal to appear or to answer questions ruled by the presiding officer to be relevant may be considered as disobedience to the Order and Discipline of The United Methodist Church.

h) Power of the Trial Court – (1) The court thus constituted shall have full poser to try the respondent. A vote of nine (9) votes for conviction shall be considered an acquittal. The burden of proof for a vote to convict shall be clear and convincing evidence. Upon conviction, the court shall have power to expel the respondent from the Church, to recommend withdrawal of the credentials of ordination or consecration of the respondent, to suspend the respondent from the exercise of the functions of office, or to fix a lesser penalty. The trial court shall present to the presiding officer a decision on each charge and each individual specification under each charge. Its findings shall be final, subject to appeal to the committee on appeals of the

jurisdictional conference or the central conference, as the case may be.

(2) The penalty fixed by the trial court shall take effect immediately, except where the penalty changes the ministerial relationship of the respondent. The presiding officer of the trial court, at his or her discretion, may order a stay of the penalty. In the trial of a clergyperson, the penalty is subject to ratification, but not amendment, in the executive session of the clergy members in full connection with the annual conference to the extent that the penalty changes the ministerial relationship of the respondent. Counsel for the Church will make the required motions to the clergy session of the clergy members in full connection with the annual conference. Clergypersons shall have the right to be present with voice during the consideration of motions of the trial court at the clergy session.

i) the resident bishop may, with the unanimous concurrence of the district superintendents, suspend the person charged from all clergy responsibilities but not the related benefits, such as annuity and conference group medical and hospital insurance, pending the outcome of the appeals process. If the person charged should be found innocent at the end of the judicial process, he or she shall be financially recompensed by his or her annual conference for the time lost under said suspension. Equitable recompense shall be determined by the conference council on finance and administration, taking into account service years, the loss of income during suspension, and loss of parsonage use, if any. In no case shall the recompense be less than the minimum salary. Time on a suspension imposed by the resident bishop shall be applied to lessen

the time of suspension fixed by the trial court and sustained or modified by the appeals process.

j) Trial Guidelines – (1) As soon as the trial has convened, the respondent shall be called upon by the presiding officer to plead to the charge, and the pleas shall be recorded. If the respondent pleads "guilty" to the charges preferred, no trial shall be necessary, but evidence may be taken with respect to the appropriate penalty, which shall thereupon be imposed. If the respondent pleads "not guilty" or if the respondent should neglect or refuse to plead, the plea of "not guilty" shall be entered, and the trial shall proceed. The respondent shall at all times during the trial, except as hereinafter provided, have the right to produce testimony and that of witnesses and to make defense.[24]

(2) The court may recess from time to time as convenience or necessity may require. During the time of recess, the members of the trial court shall be instructed that under no circumstance will they speak to one another or to others about the trial or observe media reports regarding the case. When, in consultation with counsel for both parties, the presiding officer finds it advisable, the members and reserves shall be sequestered. Threatening or tampering with the trial court or officers of the trial court shall be considered disobedience to the Order and Discipline of The United Methodist Church.

(3) If in any case the respondent, after due notice (twenty [20] days) has been given, shall refuse or neglect

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[24] *See* Judicial Council Decision 504.

to appear at the time and place set forth for the hearing, the trial may proceed in the respondent's absence. However, if in the judgment of the presiding officer there is good and sufficient reason for the absence of the respondent, the presiding officer may reschedule the trial to a later date.

(4) In all cases, sufficient time shall be allowed for the person to appear at the given place and time and for the respondent to prepare for the trail. The presiding officer shall decide what constitutes "sufficient time," but in no case shall this time be less than twenty (20) days (*see* ¶ 2627.2).

(5) The court shall be a continuing body until the final disposition of the charge. If any member of the court shall be unable to attend all the sessions, that person shall not vote upon the final determination of the case, but the rest of the court may proceed to judgment. It shall require a vote of at least nine members of the court to sustain the charges.

(6) All objections to the regularity of the proceedings and the form and substance of charges and specifications shall be made prior to or at the first session of the trial. The presiding officer, upon the filing of such objections, shall, or by motion may, determine all such preliminary objections, and may dismiss the case or in furtherance of truth and justice permit amendments to the specifications or charges not changing the general nature of the same. But after the trial court is selected as provided for in ¶ 2627.1c and convened for the trial, the authority of the presiding officer shall include the right to set reasonable time limits, after consultation with counsel for the Church and counsel for the person charged, for the presentation of

the case, provided such time is equal for both. The authority of the presiding officer shall be limited to ruling upon proper representation of the Church and the person charged, admissibility of evidence, recessing, adjourning, and reconvening sessions of the trial, charging the members of the trial court as to the Church law involved in the case at the beginning of the trial and just before they retire to make up their verdict, and such other authority as is normally vested in a civil court judge sitting with a jury, but he or she shall not have authority to pronounce any judgment in favor of or against the person charged other than such verdict as may be returned by the trial court, which body shall have the exclusive right to determine the innocence or guilt of the person charged.

(7) Objections of any party to the proceedings shall be entered on the record.

(8) No witness afterward to be examined shall be present during the examination of another witness if the opposing party objects. Witnesses shall be examined first by the party producing them, then cross-examined by the opposite party and may be questioned by members of the trial court, with the approval of the presiding officer. The presiding officer of the court shall determine all questions of relevancy and competency of evidence.

(9) The presiding officer shall not deliver a charge reviewing or explaining the evidence or setting forth the merits of the case. The presiding officer shall express no opinion on the law or the facts while the court is deliberating, except that at the request of the jury, with the consent of both counsels and in the presence of all parties in interest, the presiding officer may offer interpretation of the provisions of the *Book of Discipline*. The presiding

officer shall remain and preside until the decision is rendered and the findings are completed and shall thereupon sign and certify them.

(10) The testimony shall be taken by a stenographer, if convenient, or recorded by other appropriate means and reduced to writing and certified by the presiding officer and secretary. The record, including all exhibits, papers, and evidence in the case, shall be the basis of any appeal that may be taken.

(11) A witness, to be qualified, need not be a member of The United Methodist Church.

(12) The presiding officer of any court before which a case may be pending shall have power, whenever the necessity of the parties or witnesses shall require, to appoint, on the application of either party, a commissioner or commissioners, either an ordained minister or a layperson or both, to examine the witnesses; *provided* that three days notice of the time and place of taking such testimony shall have been given to the adverse party. Counsel for both parties shall be permitted to examine and cross-examine the witness or witnesses whose testimony is thus taken. The commissioners so appointed shall take such testimony in writing as may be offered by either party. The testimony properly certified by the signature of the commissioner or commissioners shall be transmitted to the presiding officer of the court before which the case is pending.

(13) All sessions of the trial shall be closed. However, upon written request to the presiding officer by the respondent, the trial shall be open. Also, the trial may be opened by the presiding officer, upon written request of either the counsel for the Church or the counsel for the

person charged, to family of the person charged, or family of people who brought charges to the Church, and/or to other personally significant people. This does not include, however, the deliberations of the trial court, which shall be closed. In addition, the presiding officer may, in his or her judgment on motion of counsel for either party or on the presiding officer's own motion, declare a particular session of the court to be closed. At all times, however, in the hearing portion of the trial, the presiding officer, the members of the trail court, the person(s) bringing the complaint, the person representing the Church as well as counsel for the Church, the person charged, and counsel for the person charged shall have a right to be present.

2. *Trial of a Bishop – a)* The president of the College of Bishops of the jurisdictional or central conference – or in case the person charged is the president, the secretary of the college – shall proceed to convene the court under the provisions of ¶ 2626.2*a*.

b) The president of the College of Bishops (or in the case the person charged is the president, the secretary) may preside or designate another bishop to serve as presiding officer.

c) The trial court shall be convened as provided in ¶ 2626.2*b*, with the pool of thirty-five (35) or more persons to consist of elders in full connection named by the College of Bishops in approximately equal numbers from each Episcopal area within the jurisdictional or central conference. Special consideration should be given so that the pool includes persons representative of racial, ethnic, and gender diversity.

d) Counsel for the Church shall be a bishop or another elder in full connection.

e) The trial court shall at the conclusion of the proceedings send all trial documents to the secretary of the jurisdictional or central conference, who shall keep them in custody. If an appeal is taken, the secretary shall forward the materials forthwith to the secretary of the Judicial Council. After the appeal has been heard, the records shall be returned to the secretary of the jurisdictional or central conference.

f) A bishop suspended from office shall have claim on the Episcopal Fund for salary, dwelling, pension, and other related benefits. A bishop removed from office shall have no claim upon the Episcopal Fund for salary, dwelling, pension and other related benefits from the date of such removal.

g) For the purpose of this paragraph, the United Methodist bishops in Europe shall constitute one College of Bishops.

3. *Trial of a Clergy Member of an Annual Conference, Local Pastor, Clergy on Honorable or Administrative Location, or Diaconal Minister – a)* The bishop of the respondent shall proceed to convene the court under the provisions of ¶ 2626.3*a*.

b) The bishop shall designate another bishop to be presiding officer.

c) (1) The trial court for a clergy member shall be convened as provided in ¶ 2626.3*a*, with the pool of thirty-five (35) or more persons to consist of elders in full connection. If there are not enough persons in appropriate categories in an annual conference to complete the pool, additional persons may be appointed from other annual conferences. All appointments to the pool shall be made by

the district superintendents. Special consideration should be given so that the pool includes persons representative of racial, ethnic, and gender diversity.

(2) The trial court for a local pastor shall be convened as provided in ¶ 2626.3*a* and shall consist of a pool of thirty-five (35) or more persons who shall be local pastors or, when necessary, clergy members of the annual conference. All appointments to the pool shall be made by the district superintendents. Special consideration should be given so that the pool includes persons representative of racial, ethnic, and gender diversity.

(3) The trial court for a diaconal minister shall be convened as provided in ¶ 2626.3*a* and shall consist of a pool of thirty-five (35) or more persons who shall be diaconal ministers or, when necessary, members of the Church. Special consideration should be given so that the pool includes persons representative of racial, ethnic, and gender diversity.

d) Counsel for the Church shall be an elder in full connection as provided in ¶ 2627.1*f*.

e) The trial court shall at the conclusion of the proceedings send all trial documents to the secretary of the annual conference, who shall keep them in custody. Such documents are to be held in a confidential file and shall not be released for other than appeal or new trial purposes without a signed release from both the clergyperson charged and the presiding officer of the trial court that tried the case. If an appeal is taken, the secretary shall forward the materials forthwith to the president of the court of appeals of the jurisdictional or central conference. If a president has not been elected, the secretary shall send the materials to such members of the court of appeals

as the president of the College of Bishops shall designate. After the appeal has been heard, the records shall be returned to the secretary of the annual conference unless a further appeal on a question of law has been made to the Judicial Council, in which case the relevant documents shall be forwarded to the president of that body.[25]

4. *Trial of Lay Member of a Local Church – a)* The district superintendent of the person charged shall proceed to convene the court under the provisions of ¶ 2627.1.

b) The district superintendent may be the presiding officer or may designate another elder in full connection to preside.

c) The trial court shall be convened as provided in ¶ 2627.1*c*, with the pool of thirty-five (35) or more persons to consist of lay members of local churches other than the local church of the charged layperson within the same district. Appointments to the pool shall be made by the district superintendent, who may consult with the district lay leader. Special consideration should be given so that the pool includes persons representative of racial, ethnic, and gender diversity.

d) Counsel for the Church shall be a lay or clergyperson who is a professing member of The United Methodist Church.

e) The person charged may request a change of venue. This shall be a written request to the officers of the court within ten (10) days of receipt of notice to appear for

[25] *See* Judicial council Decision 751.

trial. The presiding officer shall rule upon the request after hearing argument for the defense and the Church. If the motion is approved, the presiding officer shall name another district wherein the trial shall be held and shall notify the district superintendent, who shall convene the court. The thirty-five (35) member pool shall consist of lay members from that district. The cost of prosecution shall be borne by the annual conference.

f) If the trial court finds that the charges are proven by clear and convincing evidence, then it may impose such penalties as it may determine, including that the membership of the charged layperson in The United Methodist Church be terminated; *provided* that the trial court shall first consider other remedies that would fulfill the provisions of ¶ 221.

g) The trial court shall, at the conclusion of the proceeding, deposit all trial documents with the secretary of the charge conference. If an appeal is taken, the secretary shall deliver all documents to the district superintendent. After the appeal has been heard, the records shall be returned to the custody of the secretary of the charge conference.[26]

¶ 2628. *Appeal Procedures* – 1. *General* – *a*) In all cases of appeal, the appellant shall within thirty (30) days give a written notice of appeal and at the same time shall furnish to the officer receiving such notice (¶ 2628.2*b*, 3*a*) and to the counsel for the Church a written statement of the grounds of the appeal, and the hearing in the appellate

[26] *See* Judicial Council Decision 751.

committee shall be limited to the grounds set forth in such statement.

b) When any appellate committee shall reverse in whole or in part the findings of a trial court, or remand the case for a new hearing or trial, or change the penalty imposed by the court, it shall return to the convening officer of the trial court a statement of the grounds of its action.

c) An appeal shall not be allowed in any case in which the respondent has failed or refused to be present in person or by counsel at the investigation and the trial. Appeals shall be heard by the proper appellate body unless it shall appear to the said body that the appellant has forfeited the right to appeal by misconduct, such as refusal to abide by the findings of the trial court; or by withdrawal from the Church; or by failure to appear in person or by counsel to prosecute the appeal; or, prior to the final decision on appeal from conviction, by resorting to suit in the civil courts against the complainant or any of the parties connected with the ecclesiastical court in which the appellant was tried.[27]

d) The right of appeal, when once forfeited by neglect or otherwise, cannot be revived by any subsequent appellate body.

e) The right to prosecute an appeal shall not be affected by the death of the person entitled to such right.

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[27] *See* Judicial Council Decision 3.

Heirs or legal representatives may prosecute such appeal as the appellant would be entitled to do if living.

f) The records and documents of the trial, including the evidence, and these only, shall be used in the hearing of any appeal.

g) The appellate body shall determine two questions only: (1) Does the weight of the evidence sustain the charge or charges? (2) Were there such errors of Church law as to vitiate the verdict and/or the penalty? These questions shall be determined by the records of the trial and the argument of counsel for the Church and for the respondent. The committee on appeals shall in no case hear witnesses.

h) In all cases where an appeal is made and admitted by the appellate committee, after the charges, findings, and evidence have been read and the arguments conclude, the parties shall withdraw, and the appellate committee shall consider and decide the case. It may reverse in whole or in part the findings of the committee on investigation or the trial court, or it may remand the case for a new trial to determine verdict and/or penalty. It may determine what penalty, not higher than that affixed at the hearing or trial, may be imposed. If it neither reverses in whole or in part the judgment of the trial court, nor remands the case for a new trial, nor modifies the penalty, that judgment shall stand. The appellate committee shall not reverse the judgment nor remand the case for a new hearing or trial on account of errors plainly not affecting the result. All decisions of the appellate committee shall require a majority vote.

i) In all cases, the right to present evidence shall be exhausted when the case has been heard once on its merits in the proper court, but questions of Church law may be carried on appeal, step by step, to the Judicial Council.

j) Errors or defects in judicial proceedings shall be duly considered when present on appeal. (1) In regard to cases where there is an investigation under ¶ 2626, but no trial is held as a result thereof, errors of Church law or administration committed by those in charge of the investigation are to be corrected by the presiding officer of the next conference on request in open session, and in such event the conference may also order just and suitable remedies if injury resulted from such errors. (2) Errors of Church law or defects in judicial proceedings that are discovered on appeal are to be corrected by the presiding officer of the next conference upon request in open session, and in such event the conference may also order just and suitable remedies if injury has resulted from such errors.

k) Questions of procedure may be raised with the presiding officer or secretary of the appellate body. Under no circumstances shall one party in the absence of the other party discuss substantive matters with members of any appellate body while the case is pending (cf. ¶ 2619).

l) In all matters of judicial administration, the rights, duties, and responsibilities of clergy members and diaconal ministers of missionary conferences and provisional annual conferences are the same as those in annual conferences, and the procedure is the same.

m) Contacts with members of any appellate body shall be limited to matters of procedure and shall be

directed only to the presiding officer or secretary of the appellate body. Under no circumstances shall matters of substance be discussed.

2. *Appeal of a Bishop, Clergy Member of an Annual Conference, Clergy on Honorable or Administrative Location, Local Pastor, or Diaconal Minister – a)* Each jurisdictional and central conference, upon nomination of the College of Bishops, shall elect a committee on appeals composed of four (4) elders, one (1) diaconal minister, one (1) full-time local pastor, and three (3) laypersons who have been at least six (6) years successively members of The United Methodist Church, and an equal number of corresponding alternates. This committee shall serve until its successors have been elected. No member shall participate in the hearing of an appeal who is a member of a conference in the episcopal area of the appellant.

The committee on appeals shall have full power to hear and determine appeals of bishops, clergy members, clergy members on honorable or administrative location, local pastors, and diaconal ministers from any annual conference, provisional or missionary conference within the jurisdiction or central conference. The committee shall elect its own president and secretary and shall adopt its own rules of procedure, and its decisions shall be final, except that an appeal may be taken to the Judicial Council only upon questions of law related to procedures of the jurisdictional committee on appeals, central conference committee on appeals, or under the provisions of ¶ 2615. A bishop designated by the College of Bishops shall convene the committee at the site of jurisdictional or central conference for the purpose of electing officers.

b) In case of conviction in a trial court, a bishop, clergy member, local pastor, clergy on honorable or administrative location, or diaconal minister shall have the right of appeal to the jurisdictional or central conference committee on appeals above constituted; *provided* that within thirty (30) days after the conviction, the appellant shall notify the presiding bishop of the conference (or, when the appellant is a bishop, the president and secretary of the College of Bishops) and the presiding officer of the trial court in writing of the intention to appeal.

c) When notice of an appeal has been given to the presiding officer of the trial court, the presiding officer shall give notice of the same to the secretary of the committee on appeals of the jurisdictional or central conference and submit the documents in the case, or in case the documents have been sent to the secretary of the annual conference, instruct the secretary to send the documents to the president of the committee on appeals. The jurisdictional or central conference committee on appeals shall within thirty (30) days give notice to the presiding bishop of the conference from which the appeal is taken (or to the president and secretary of the College of Bishops when the appellant is a bishop) and to the appellant of the time and place where the appeal will be heard. Such hearing shall occur within 120 days following receipt of notice to the committee on appeals. Both the annual conference, missionary conference, or provisional conference and the appellant may be represented by counsel as specified in ¶ 2627.1*f*. The presiding bishop of the conference or, in the appeal of a bishop, the president or secretary of the College of Bishops, shall appoint counsel for the Church.

d) All necessary traveling and sustenance expense incurred by the committee on appeals, the counsel for the Church, and the counsel for the appellant, in the hearing of an appeal case coming from an annual conference and appearing before any jurisdictional or central conference committee on appeals, shall be paid out of the administrative fund of the central or jurisdictional conference in which the proceedings arise. The president of the committee on appeals shall approve all expenses.

This paragraph, as it relates to the process for nomination, appointment, or election of individuals, officers, courts, administrative bodies, review bodies, or committees, shall become effective immediately upon the conclusion of the 1992 General Conference.

3. *Appeal of a Lay Member – a*) A lay member convicted in a trial court shall have the right of appeal and shall serve written notice of appeal with the pastor and the district superintendent within thirty (30) days of conviction.

b) The district superintendent shall, on receipt of notice of appeal, give written notice to all concerned of the time and place of the convening of a committee on appeals not less than ten (10) nor more than thirty (30) days after such notice has been delivered.

c) The committee on appeals shall be constituted in the following manner: The district superintendent shall appoint eleven (11) laypersons who are members of United Methodist Churches within the annual conference other than the appellant's local church, none of whom shall have been members of the trial court, and who hold office either as lay leader or lay member of the annual conference. At

the convening of the committee on appeals, from seven (7) to eleven (11) of these shall be selected to serve on the court. The counsel for the appellant and the counsel for the church shall have the right to challenge for cause, and the decisions on the validity of such challenges shall be made by the presiding officer, who shall be the district superintendent.

d) The findings of the committee on appeals shall be certified by the district superintendent to the pastor of the church of which the accused is a member.

4. *Other Appeals – a*) The order of appeals on questions of law shall be as follows from the decision of the district superintendent presiding in the charge or district conference to the bishop presiding in the annual conference, and from the decision of the bishop presiding in the annual conference to the Judicial Council, and from a central conference to the Judicial Council.

b) When an appeal is taken on a question of law, written notice of the same shall be served on the secretary of the body in which the decision has been rendered. It shall be the secretary's duty to see that an exact statement of the question submitted and the ruling of the chair thereon shall be entered on the journal. The secretary shall then make and certify a copy of the question and ruling and transmit the same to the secretary of the body to which the appeal is taken. The secretary who thus receives said certified copy shall present the same in open conference and as soon as practicable lay it before the presiding officer for a ruling thereon, which ruling must be rendered before the final adjournment of that body, that said ruling together with the original question and ruling

may be entered on the journal of that conference. The same course shall be followed in all subsequent appeals.

¶ 2629. *Miscellaneous Provisions* – 1. Any clergy members residing beyond the bounds of the conference in which membership is held shall be subject to the procedures of ¶¶ 2623-2628 exercised by the appropriate officers of the conference in which he or she is a member, unless the presiding bishops of the two annual conferences and the clergy member subject to the procedures agree that fairness will be better served by having the procedures carried out by the appropriate officers of the annual conference in which he or she is serving under appointment.

2. When a bishop, clergy member, local pastor, or diaconal minister is charged with an offense under ¶ 2624 and desires to withdraw from the Church, the jurisdictional or central conference in the case of a bishop, the annual conference in the case of a clergy member, or the district conference (where there is no district conference, the charge conference) in the case of a local pastor or diaconal minister may permit withdrawal; in which case the record shall be "Withdrawn under charges," and that person's status shall be the same as if expelled.

3. When a member of the Church is charged with an offense and desires to withdraw from the Church, the charge conference may permit such member to withdraw, in which case the record shall be "Withdrawn under complaints." If formal charges have been presented, such member may be permitted to withdraw, in which case the record shall be "Withdrawn under charges." In either case,

the status shall be the same as if the member had been expelled.

4. In all matters of judicial administration, the rights, duties, and responsibilities of clergy members, local pastors, clergy on honorable or administrative location, and diaconal ministers of missions, missionary conferences, and provisional annual conferences are the same as those in annual conferences, and the procedure is the same.

IN THE CIRCUIT COURT IN AND
FOR ESCAMBIA COUNTY, FLORIDA

VIRGINIA M. CARNESI, CASE NO.:

Plaintiff,

vs.

FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, UNITED METHODIST CHURCH and CHESTER HARRISON, individually and as Pastor-Parish Relations Committee Chairman,

Defendants /

COMPLAINT

Plaintiff, VIRGINIA M. CARNESI, sues Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, UNITED METHODIST CHURCH and CHESTER HARRISON and alleges:

JURISDICTION

1. This is an action for damages that exceeds $15,000.00

COMMON ALLEGATIONS

2. Defendant, FERRY PASS UNITED METHODIST CHURCH, is a religious organization licensed to and conducting business in the State of Florida.

3. Defendant, FERRY PASS UNITED METHODIST CHURCH is a member of the PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH.

4. Defendant, CHESTER HARRISON, is and was at all times material to this Complaint a resident of Pensacola, Escambia County, Florida.

5. Plaintiff, VIRGINIA M. CARNESI, was hired on February 13, 1995 and served in the employment of Defendants at all times relevant to this action.

6. On July 29, 1996, Plaintiff, VIRGINIA M. CARNESI was terminated from her employment with Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH.

7. Almost immediately after she began her employment with Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, Plaintiff, VIRGINIA M. CARNESI, was subjected to repeated episodes of sexual harassment

by Defendant's agent, CHESTER HARRISON, which included but were not limited to the following:

a. comments of a sexual nature so as to make her know that he wanted her;

b. coming up behind her and hugging and kissing her without her consent;

c. touching her breasts,

d. touching the top portion of her butt,

e. unwelcome sexual advances such as holding her against her will close to his body so as to make her feel his erection.

f. tongue kissing her; and

g. assault and battery upon her person.

8. Plaintiff, VIRGINIA M. CARNESI, reported the incidents of sexual harassment to the Pastor, Rev. E. Bruce Fitzgerald and Rev. Alton Moore of FERRY PASS UNITED METHODIST CHURCH.

9. After being notified by Plaintiff, VIRGINIA M. CARNESI, Rev. E. Bruce Fitzgerald told Plaintiff, VIRGINIA M. CARNESI, that nothing could be done.

10. After being notified by Plaintiff, VIRGINIA M. CARNESI, Rev. Alton Moore chose not to believe her and nothing was done.

11. At all times relevant to this Complaint, Defendant, CHESTER HARRISON, was acting for himself, individually, and as Pastor Parish Relations Chairman of FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA

WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH.

COUNT I

SEXUAL HARASSMENT – HOSTILE WORK ENVIRONMENT

12. Plaintiff, VIRGINIA M. CARNESI, readopts and realleges allegations contained in paragraph [sic] 1-11 as though fully set forth herein.

13. This action arises under Section760.01 Fla. Stat. *et seq.*

14. The Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, are a religious organization licensed to and conducting business in Escambia County, Florida.

15. The Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, employs 15 or more employees and, therefore, is an "employer" for purposes of the Florida Civil Rights Act of 1992, Section 760.01 Fla. Stat. *et seq.*

16. On or about August 26, 1996, Plaintiff, VIRGINIA M. CARNESI, filed a Charge of Discrimination alleging sexual harassment with the Florida Commission

on Human Relations and the Equal Employment Opportunity Commission.

17. Since the date of filing the Administrative Complaint, 180 days have passed and pursuant to pursuant to [sic] Section 760.11(8) Fla. Stat., Plaintiff is entitled to pursue a civil action since no determination has been made by the Commission.

18. Plaintiff, VIRGINIA M. CARNESI, has complied with all the prerequisites and requirements to bring this cause of action, including having exhausted all administrative remedies. All conditions precedent to this action have been met or waived.

19. The Plaintiff, VIRGINIA M. CARNESI, is a female.

20. On several different occasions more particularly set forth in this Complaint, during the course of Plaintiff, VIRGINIA M. CARNESI'S, employment with Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, Plaintiff, VIRGINIA M. CARNESI, was sexually harassed by her supervisor, CHESTER HARRISON. The sexually harassing conduct included, but is not limited to:

a. comments of sexual nature so as to make her know that he wanted her;

b. coming up behind her and hugging and kissing her without her consent;

c. touching her breasts,

d. touching the top portion of her butt,

e. unwelcome sexual advances such as holding her against her will close to his body so as to make her feel his erection,

f. tongue kissing her; and

g. assault and battery upon her person.

21. The sexually offensive, hostile, and intimating conduct directed at Plaintiff, VIRGINIA M. CARNESI, was unwelcome and based on sex.

22. Based on the conduct of CHESTER HARRISON, Plaintiff, VIRGINIA M. CARNESI, was forced as a condition of her employment with Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, to work in an intimidating, hostile, and sexually offensive work environment.

23. Submission to this sexually offensive, hostile, and intimidating conduct was made both explicitly and implicitly a condition of her employment, and it affected a term, condition, and a privilege of her employment.

24. Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, knew or should have known, of this harassment by CHESTER HARRISON, but failed to properly investigate and take affirmative action to secure that the harassment ceased.

25. Plaintiff, VIRGINIA M. CARNESI, directly reported these incidents of sexual harassment to her

immediate supervisor, and other employees of Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH.

26. As a direct and proximate result of Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH's actions, the Plaintiff, VIRGINIA M. CARNESI, was caused to suffer humiliation, embarrassment, mental distress, mental anguish, and other directly and indirectly related expenses and Plaintiff will suffer such losses in the future.

27. Plaintiff, VIRGINIA M. CARNESI, has been forced to hire the legal services of the undersigned to enforce her rights under § 760.01 Fla. Stat. *et seq.* and has agreed to pay her attorneys reasonable attorneys' fees for the services rendered in this cause.

WHEREFORE, Plaintiff sues the Defendants for compensatory and punitive damages, and all of the relief to which she is entitled at law or in equity.

The Plaintiff, VIRGINIA M. CARNESI, hereby demands trial by jury, reimbursement of costs, and payment of attorneys' fees pursuant to § 760.11(5) Fla. Stat.

COUNT II

SEXUAL HARASSMENT – QUID PRO QUO

28. Plaintiff, VIRGINIA M. CARNESI, realleges and incorporates by reference herein paragraphs 1-27 as if fully set forth herein.

29. This action arises under § 760.01 Fla. Stat. *et seq.*

30. Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, are a religious organization licensed to and conducting business in Escambia County, Florida.

31. The Defendants FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, employ 15 or more employees and, therefore, is an "employer" for purposes of the Florida Civil Rights of 1992, § 760.01 Fla. Stat. *et seq.*

32. The Plaintiff, VIRGINIA M. CARNESI, has complied with all the prerequisites and requirements to bring this cause of action, including having exhausted all administrative remedies. All conditions precedent have been met or waived.

33. The Plaintiff, VIRGINIA M. CARNESI, is a female.

34. On several different occasions during the course of her employment with FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, Plaintiff, VIRGINIA M. CARNESI, was sexually harassed by her supervisor, CHESTER HARRISON. The sexually harassing conduct included, but is not limited to:

a. comments of sexual nature so as to make her know that he wanted her;

b. coming up behind her and hugging and kissing her without her consent;

c. touching her breasts,

d. touching the top portion of her butt,

e. unwelcome sexual advances such as holding her against her will close to his body so as to make her feel his erection,

f. tongue kissing her; and

g. assault and battery upon her person.

35. The sexually offensive, hostile, harassing, and intimidating conduct directed at VIRGINIA M. CARNESI was unwelcome and based on sex.

36. PLAINTIFF, VIRGINIA M. CARNESI's, reaction to the harassment complained of above affected tangible aspects of her compensation, terms, conditions, and privileges of employment. This included, but is not limited to her being threatened with her position with Defendants FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE,

ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, in regards to her succumbing to the sexual advances of CHESTER HARRISON.

37. As a direct and proximate result of Defendant's actions, Plaintiff, VIRGINIA M. CARNESI was caused to suffer humiliation, embarrassment, mental distress, mental anguish, and other directly and indirectly related expenses and Plaintiff will suffer such losses in the future.

38. Plaintiff, VIRGINIA M. CARNESI, has been forced to hire the legal services of the undersigned to enforce her rights under § 760.01 Fla. Stat. *et seq.* and has agreed to pay her attorneys reasonable attorneys' fees for the services rendered in this cause.

WHEREFORE, Plaintiff sues the Defendants for compensatory and punitive damages, and all other the [sic] relief to which she is entitled at law or in equity.

The Plaintiff, VIRGINIA M. CARNESI, hereby demands trial by jury, reimbursement of costs, and payment of attorneys' fees pursuant to § 760.11(5) Fla. Stat.

COUNT III

BATTERY

39. Plaintiff, VIRGINIA M. CARNESI, realleges and incorporates by reference herein paragraphs 1-38 as if fully set forth herein.

41. This is an action based on battery against Defendants, CHESTER HARRISON, individually and as an agent of FERRY PASS UNITED METHODIST CHURCH,

PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and FERRY PASS UNITED METHODIST CHURCH, UNITED METHODIST CHURCH, and PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, based upon the acts committed by CHESTER HARRISON.

41. At all times material herein, CHESTER HARRISON was acting with actual and/or apparent authority as an agent of FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH.

42. CHESTER HARRISON's actions, which were committed as an agent of FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, as more fully described in the paragraphs above, constitute an unlawful touching and battery of VIRGINIA M. CARNESI in that CHESTER HARRISON intended to and actually touched VIRGINIA M. CARNESI without her consent.

43. At all times material hereto there was a complete absence of VIRGINIA M. CARNESI's consent to such unlawful, harmful, and/or offensive touching by CHESTER HARRISON.

44. Defendant CHESTER HARRISON's offensive and/or harmful touching was intentional, willful, wanton,

malicious, and/or was committed with a reckless disregard for VIRGINIA M. CARNESI's rights and the consequences of CHESTER HARRISON's actions.

45. As a direct, proximate and foreseeable result of Defendant's actions, VIRGINIA M. CARNESI has suffered humiliation, embarrassment, pain, suffering and mental anguish. The suffering is permanent, continuing and will cause Ms. Carnesi to suffer losses in the future.

WHEREFORE, Plaintiff demands trial by jury and that judgment is entered against Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH and CHESTER HARRISON, as follows:

1) damages in excess of $15,000.00;

2) reasonable costs; and

3) such other and further relief as the court may deem just and proper.

COUNT IV

ASSAULT

46. Plaintiff, VIRGINIA M. CARNESI, realleges and incorporates by reference herein paragraphs 1-45 as if fully set forth herein.

47. This is an action based on assault against Defendants, CHESTER HARRISON, individually and as agent of FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST

CONFERENCE and UNITED METHODIST CHURCH, and FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, based upon the acts committed by CHESTER HARRISON.

48. At all times material herein, CHESTER HARRISON was acting with actual and/or apparent authority and as an agent of FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE and UNITED METHODIST CHURCH.

49. CHESTER HARRISON's actions, which were committed as an agent of FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, as described herein, constitute an assault of VIRGINIA M. CARNESI in that CHESTER HARRISON intended to and actually did place VIRGINIA M. CARNESI in fear and/or apprehension of bodily harm.

50. At all times material hereto, there was a complete absence of VIRGINIA M. CARNESI's consent to such assaults by CHESTER HARRISON.

51. CHESTER HARRISON's assaults were intentional, willful, wanton, malicious, and/or committed with such reckless disregard for VIRGINIA M. CARENSI's rights and the consequences of CHESTER HARRISON's actions and were intended by CHESTER HARRISON to

put VIRGINIA M. CARNESI in apprehension of immediate or harmful contact.

52. As a direct result of such actions, VIRGINIA M. CARNESI was put in immediate apprehension of immediate or harmful contact.

53. Defendants engaged in such acts with the knowledge or substantial certainty that emotional and mental distress would result.

54. As a direct, proximate and foreseeable result of Defendant's actions, VIRGINIA M. CARNESI has suffered humiliation, embarrassment, pain, suffering and mental anguish. The suffering is permanent, continuing and will cause VIRGINIA M. CARNESI to suffer losses in the future.

WHEREFORE, Plaintiff demands trial by jury and that judgment be entered against Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE and UNITED METHODIST CHURCH, and CHESTER HARRISON, at follows:

1) damages in excess of $15,000.00;

2) reasonable costs; and

3) such other and further relief as the court may deem just and proper.

COUNT V

FALSE IMPRISONMENT

55. Plaintiff, VIRGINIA M. CARNESI, realleges and incorporates by reference here paragraphs 1-54 as if fully set forth herein.

56. Defendants, CHESTER HARRISON, acting individually and as an agent of Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, intentionally, willfully and maliciously held, restrained and falsely imprisoned the Plaintiff, VIRGINIA M. CARNESI, against her will as noted in this Complaint.

57. As a direct, foreseeable, and proximate result of Defendant's actions, VIRGINIA M. CARNESI suffered humiliation, embarrassment, pain, suffering and mental anguish. The suffering is permanent, continuing and will cause VIRGINIA M. CARNESI to suffer losses in the future.

WHEREFORE, Plaintiff demands trial by jury and requests judgment be entered against Defendants, FERRY PASS UNITED METHODIST CHURCH, PENSACOLA DISTRICT UNITED METHODIST CONFERENCE, ALABAMA WEST FLORIDA UNITED METHODIST CONFERENCE, and UNITED METHODIST CHURCH, and CHESTER HARRISON, as follows:

1) damages in excess of $15,000.00;

2) reasonable costs; and

3) such other and further relief as the court may deem just and proper.

/s/ [Illegible]

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